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Memorial of a Delegation
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1838

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MEMORIAL

OF

A DELEGATION OF THE CHEROKEE NATION;

Remonstrating against the instrument of writing (treaty) of December, 1835.

JANUARY 15, 1838.

Printed by order of the House of Representatives.

To the honorable the Senate and House of Representatives of the United States in Congress assembled :

The memorial and petition of the undersigned, a delegation appointed by the Cherokee nation, on behalf of themselves and their constituents,

RESPECTFULLY SHEWETH :

That, at the session of your honorable bodies held during the preceding winter, a memorial was prepared to lay before your honorable bodies, on behalf of the Cherokee nation, setting forth their grievances. This paper was laid before the Senate, but no opportunity presented itself to submit it to the House of Representatives. To this document the undersigned pray leave to refer as part of this, their present petition, and to request that it may receive your attention and regard. Subsequent to the termination of that session of Congress, and after the installation of the present Chief Magistrate in the Executive chair, we addressed to him a memorial, a copy of which is appended, and to the contents of which we implore your earnest attention. The documents referred to in those papers are on the files of your honorable bodies, or in the War Department.

Since that period the Cherokee people have again, in full national council, appointed the undersigned, as their representatives, to lay before the Government of the United States a statement of their condition, and clothed them with full authority to enter into such arrangements as may be concurred in by the United States. These proceedings are herewith submitted.

A special agent of the United States was at that time in our country. A copy of the resolutions of the general council was transmitted to him, and an opportunity was offered that gentleman of seeing for himself what was the position, and ascertaining for himself what were the opinions and sentiments of our people.

That gentleman won for himself our respect and high regards. Doubtless he has communicated to the Executive the result of his observations; and such is the confidence we repose in him, that we feel assured his representations accord with the facts.

Although we had not consummated with him any arrangement, yet his conciliatory tone, and the sympathy he expressed towards us, reanimated our hopes; and when, upon our arrival at this place, and having had an interview with the President, we learned that he was to be the organ of communication between us and the War Department, we could not but indulge the expectation that we might yet conclude such an arrangement as would be mutually and equally satisfactory.

This cup of hope has been dashed from our lips. The negotiations with him have been terminated; and the Secretary has, while refusing to treat with us upon any basis that we could suggest, and declining to intimate to us what the Executive would be disposed to grant, intimated to us the fixed and unalterable determination to enforce upon us the stipulations of the fraudulent and invalid instrument purporting to be a treaty negotiated at New Echota in 1835.

Such being the decision of the Executive, we have no alternative but an appeal to your honorable bodies. No denial has been given to our statement of the facts connected with that document; it is not asserted that it was fairly and honestly made; it is not alleged that it was negotiated with persons authorized to represent and to bind our nation; it is not intimated that it ever was authorized or recognised by our people. Indeed, there could be no shadow of ground upon which to question or to controvert our assertions upon these points.

Yet we are told that the Executive has no discretion—has no power to disregard it, or to enter into any arrangement inconsistent with its provisions. And this is substantially all the answer we can obtain. On a former occasion, when, under similar circumstances, it was represented to the Government of the United States that an instrument, purporting to be a treaty, had been executed by parties unauthorized by those whom they professed to represent, an inquiry was instituted, the truth of the allegations ascertained, and the Executive promptly redressed the wrong. A new treaty was concluded, the first provision of which was to annul that which had been imposed by fraud upon the President and Senate. It was from looking to that case that we have erred, if we were wrong in supposing that it was the Executive to whom we were to address ourselves.

But we cannot, and will not, yet believe that we are remediless; that because, from imperfect knowledge of the circumstances of the case, those who signed the instrument of which we complain were supposed to be authorized, and therefore the validity of their acts was presumed—that when the contrary is alleged, all inquiry will be refused, and, when proved, the United States will persevere in demanding at our hands the fulfilment of the stipulations of a void and fraudulent contract.

We cannot for a moment suspect that either the disposition or the power is wanting to annul this instrument, if it be ascertained to be open to the objections we have urged against it. Knowing, as we do, that these objections are true to their very letter, we have never relinquished the hope that we should ultimately receive justice.

A charge has been made against some of our number that we have misled our people, by inducing them to entertain false hopes. In the most solemn manner, and with a due sense of the responsibility we incur, we assert that the only hopes we ever encouraged were, that the United States would never perpetrate injustice and wrong against those over whom they had voluntarily assumed the relationship of guardian and

protector ; that they would listen to our remonstrances, hear our petition, investigate the facts, and decide in conformity with the immutable principles of equity, justice, and good faith. If these be false hopes, we shall admit, not only that we have been egregiously deceived ourselves, but have been instrumental in deceiving others.

Independently of our objections to the instrument in question, we have other causes of complaint to lay before your honorable bodies. We complain of the outrages which have been inflicted upon our persons and property, lawless arrests, open acts of violence perpetrated upon both. We complain of sending among us a large armed force, of the attempts made to prevent the expression of opinion among us, of the arrest and imprisonment of our persons, of the expulsion of our people from their homes ; for which, even the document in question furnishes no ground or cause. All these, however, sink into insignificance when compared with the one overwhelming calamity, present and prospective, of having the instrument of December, 1835, enforced upon us and our people.

To these prayers we again, in the name of our nation, solicit your attention. Our last and only hope depends upon your honorable bodies. Under our present impressions, we feel it due to ourselves frankly to state that the Cherokee people do not, and will not, recognise the obligation of the instrument of December, 1835. We reject all its terms ; we will receive none of its benefits. If it is to be enforced upon us, it will be by your superior strength. We shall offer no resistance ; but our voluntary assent never will be yielded. We are aware of the consequences ; but while suffering them in all their bitterness, we shall submit our case to an all-wise and just God, in whose providence it is to maintain the cause of suffering innocence and unprotected feebleness.

JOHN ROSS,
R. TAYLOR,
EDWARD GUNTER,
JAMES BROWN,
ELIJAH HICKS,
SAMUEL GUNTER, his x mark.
SITEWAKEE his x mark.
WHITE PATH, his x mark.

WASHINGTON CITY, *December 15, 1837.*

MEMORIAL

Of John Ross, R. Taylor, James Brown, Samuel Gunter, George Sanders, and John Benge, Delegates from the Eastern Cherokees : and John Looney, Aaron Price, William Dutch, and W. S. Coody, Delegates from the Western Cherokees ;

In behalf of the Cherokee nation, declaring that the late treaty was made without any authority from their nation ; that they have never given their assent to it ; remonstrating against its execution ; and not having been admitted to lay their complaints before the Executive, they pray Congress to examine into the truth of their allegations, and in the mean time to suspend the execution of the treaty.

To the honorable the Senate and House of Representatives of the United States in Congress assembled :

The memorial and petition of the undersigned, a delegation appointed by the Cherokee nation in full council,

RESPECTFULLY SHEWETH :

That the Cherokee nation, deeply sensible of the evils under which they are now laboring, and the still more frightful miseries which they have too much reason to apprehend, have, in the most formal and solemn manner known to them, assembled in general council to deliberate upon their existing relations with the Government of the United States, and to lay their case with respectful deference before your honorable bodies.

Invested with full powers to conclude an arrangement upon all the matters which interest them, we have arrived at the seat of Government, and, in accordance with our usual forms of proceeding, have notified the honorable the Secretary of War that we had reached this place, and, through him, solicited an interview with the Executive. This request has not yet been granted, nor has it to this day received an official answer ; but we have reason to apprehend, from circumstances which have reached us, that we shall be denied this application ; and are thus compelled, in the discharge of our duty to our constituents, to submit to your honorable bodies the memorial of which we are the bearers.

On former occasions we have, in much detail, laid before you the prominent facts of our case. We have reminded you of our long and intimate connexion with the United States ; of the scenes of peril and of difficulty which we have shared in common ; of the friendship which had so long been generously proffered, and affectionately and gratefully accepted ; of the aids which were supplied us in promoting our advancement in the arts of civilized life ; of the political principles which we had imbibed ; of the religious faith we have been taught.

We have called your attention to the progress which, under your auspices, we have made ; to the improvements which have marked our social and individual state ; our lands brought into cultivation, our natural resources developed, our farms, workshops, and factories approximating in character and value to those of our brethren, whose example we had diligently imitated.

A smooth and beautiful prospect of future advancement was opened before us. Our people had abandoned the pursuits, the habits, and the tastes of the savage, and had put on the vestments of civilization, of intelligence, and of a pure religion. The progress we had made furnished us with the most assured hopes of continued improvement, and we in-

dulged in the anticipation that the time was not far distant when we should be recognised on the footing of equality by the brethren from whom we had received all which we were now taught to prize.

This promise of a golden sunshine is now overspread. Clouds and darkness have obscured its brilliancy. The winds are beginning to mutter their awful forebodings ; the tempest is gathering thick and heavy over our heads, and threatens to burst upon us with terrific energy and overwhelming ruin.

In this season of calamity, where can we turn with hope or confidence ? On all former occasions of peril or of doubt, the Government of the United States spread over us its broad and paternal shield. It invited us to seek an asylum and a protection under its mighty arm ; it assisted us with its encouragement and advice ; it soothed us with its consoling assurances ; it inspired us with hope, and gave us a feeling of confidence and security.

But, alas ! this our long-cherished friend seems now to be alienated from us ; this our father has raised his arm to inflict the hostile blow ; this strength, so long our protection, is now exerted against us ; and on the wide scene of existence no human aid is left us. Unless you avert your arm, we are destroyed. Unless your feelings of affection and compassion are once more awakened towards your destitute and despairing children, our annihilation is complete.

It is a natural inquiry among all who commiserate our situation, what are the causes which have led to this disastrous revolution, to this entire change of relations ? By what agency have such results been accomplished ?

We have asked, and we reiterate the question, How have we offended ? Show us in what manner we have, however unwittingly, inflicted upon you a wrong : you shall yourselves be the judges of the extent and manner of compensation. Show us the offence which has awakened your feelings of justice against us, and we will submit to that measure of punishment which you shall tell us we have merited. We cannot bring to our recollections any thing we have done, or any thing we have omitted, calculated to awaken your resentment against us.

But we are told that a treaty has been made, and all that is required at our hands is to comply with its stipulations. Will the faithful historian, who shall hereafter record our lamentable fate, say the Cherokee nation executed a treaty by which they freely and absolutely ceded the country in which they were born and educated, the property they had been industriously accumulating and improving, and, abandoning the high road by which they had been advancing from savagism, had precipitated themselves into worse than their pristine degradation ? Will not the reader of such a narrative require the most ample proof before he will credit such a story ? Will he not inquire where was the kind and parental guardian who had heretofore aided the weak, assisted the forlorn, instructed the ignorant, and elevated the depressed ? Where was the Government of the United States, with its vigilant care over the Indian, when such a bargain was made ? How will he be surprised at hearing that the United States was a party to the transaction ; that the authorities of that Government, and the representatives of that people, which had for years been employed in leading the Cherokees from ignorance to light, from barbarism to civilization, from paganism to Christianity, who had taught them new habits and new hopes, was the very party which was about

to appropriate to itself the fruits of the Indian's industry, the birthplaces of his children, and the graves of his ancestors!

If such a recital could command credence, must it not be on the ground that experience had shown the utter failure of all the efforts and the disappointment of all the hopes of the philanthropist and the Christian? That the natives of this favored spot of God's creation were incapable of improvement, and unsusceptible of education, and that they, in wilful blindness, spurning the blessings which had been proffered and urged upon them, would pertinaciously prefer the degradation from which it had been attempted to lead them, and the barbarism from which it had been sought to elevate them?

How will his astonishment be augmented when he learns that the Cherokee people, almost to a man, denied the existence and the obligation of the alleged compact; that they proclaimed it to have been based in fraud, and concocted in perfidy; that no authority was ever given to those who undertook, in their names and on their behalf, to negotiate it; that it was repudiated with unexampled unanimity when it was brought to their knowledge; that they denied that it conferred any rights or imposed any obligations!

Yet such must be the story which the faithful historian must record. In the name of the whole Cherokee people, we protest against this unhallowed, and unauthorized, and unacknowledged compact. We deny its binding force; we recognise none of its stipulations. If, contrary to every principle of justice, it is to be enforced upon us, we shall at least be free from the disgrace of self-humiliation. We hold the solemn disavowal of its provisions by eighteen thousand of our people.

We, the regularly commissioned delegation of the Cherokee nation, in the face of Heaven, and appealing to the Searcher of all hearts for the truth of our statements, ask you to listen to our remonstrances. We implore you to examine into the truth of our allegations. We refer you to your own records, to your own agents, to men deservedly enjoying your esteem and confidence, as our witnesses; and we proffer ourselves ready, if you will direct the inquiry, to establish the truth of what we aver. If we fail to substantiate our statements, overwhelm us with ignominy and disgrace; cast us off from you forever. If, however, on the other hand, every allegation we make shall be sustained by the most convincing and abundant proof, need we make further or stronger appeals than the simple facts of the case will themselves furnish, to secure your friendship, your sympathy, and your justice?

We will not and we cannot believe, after the long connexion that has subsisted between us—after all that has been done and all that has been promised—that our whole nation will be forcibly ejected from their native land and from their social hearths, without the pretence of crime, without charge, without evidence, without trial; that we shall be exiled from all that we hold dear, and venerable, and sacred; and driven into a remote, a strange, and a sterile region, without even the imputation of guilt. We will not believe that this will be done by our ancient allies, our friends, our brethren. Yet, between this and the abrogation of the pretended treaty, there is no medium. Such an instrument, so obtained, so contaminated, cannot cover the real nature of the acts which it is invoked to sanction. If we are thus to suffer, no disguise can be useful or availing.

If power is to be exerted, let it come unveiled. We shall but submit and die.

If, however, as our long experience has taught us to hope, we yet retain any hold upon your sympathies, any claims upon your justice; if, entertaining doubts as to the truth of our statements, you will investigate before you determine, and inquire before you decide such momentous questions irrevocably and forever, we entreat delay until the subject shall be fully and fairly examined. You will constitute the inquiring power; you will be the tribunal to adjudge upon the whole matter; you can at any time carry into execution your own decisions. Without the means of resistance—without the disposition, in any way, to injure you—we shall yield to what you shall ultimately determine to be a just and righteous judgment.

Should the result of your investigations sustain our assertions, and you should stay your hand, already uplifted, against us—we are clothed with full powers to make an arrangement of every subject of difference, and to negotiate a treaty obligatory upon our nation, and competent to secure to the people of the United States all which their own sense of justice will lead them to require.

May we not indulge the confident assurance, that, as you can sustain no injury by this delay, the present execution of the alleged treaty may at least be suspended; that, as investigation will tend only to elicit the whole truth, it may be promptly and efficiently made; that, as a liberal justice has marked your intercourse with us, nothing will be required of us which is not thus sanctioned. If this be granted to us, the grateful prayers of a united and rescued nation will be daily presented before the throne of Divine Mercy, invoking upon your heads the choicest blessings of Heaven, perpetuity upon your institutions, and every happiness upon your people.

JNO. ROSS,

R. TAYLOR,

JAMES BROWN,

SAMUEL GUNTER, his x mark,

GEORGE SANDERS, his x mark.

JOHN BENGE, his x mark.

Delegates from the Eastern Cherokees.

JOHN LOONEY, his x mark,

AARON PRICE, his x mark,

WM. DUTCH, his x mark,

W. S. COODY.

Delegates from the Western Cherokees.

WASHINGTON CITY, February 22, 1837.

Copy of a communication from the Chiefs and Representatives of the Cherokee People to Brig. General John E. Wool, Sept. 30, 1836.

RED CLAY COUNCIL GROUND, CHEROKEE NATION,

September 30, 1836.

SIR: The undersigned, chiefs and representatives of the Cherokee people, beg leave to address you as the commanding general intrusted with

the execution of the orders of the President of the United States, concerning the instrument purporting to be a treaty between the United States and the Cherokee nation east of the Mississippi; and have the honor to state, that your communication of the 19th instant, to the Cherokee people, respecting your instructions on the subject, was promptly read and interpreted to them in general council assembled. The result of their deliberations, and the expression of sentiments adopted by upwards of twenty-one hundred male adults on this occasion; the undersigned would also most respectfully communicate, through you, to the Government of the United States, to wit: The chiefs, national committee and council, and the people of the Cherokee nation in general council assembled, have resolved, that the instrument purporting to be a treaty made at New Echota, on the 29th day of December, 1835, by the Rev. John F. Sehermerhorn, commissioner of the United States, and the chiefs, headmen, and people of the Cherokee tribe of Indians, is a fraud upon the Government of the United States, and an act of oppression on the Cherokee people; that those who are represented as acting on the part of the Cherokees, and who assume the style of "chiefs and headmen," hold no such title or designation from the Cherokees, nor have they received authority from the nation to form said instrument; therefore, said instrument is null and void, and can never, in justice, be enforced upon the nation, as they do most solemnly disclaim and utterly reject said instrument in its principles and all its provisions; that a respectful memorial to the Government of the United States be prepared on behalf of the Cherokee people, praying that the said instrument may be set aside; that a delegation, consisting of John Ross, principal chief, Richard Taylor, Samuel Gunter, George Sanders, Walter S. Adair, John Benge, James Brown, and Stephen Foreman, be, and are, appointed with full powers, to represent the Cherokee people before the Government of the United States, and to enter into arrangements for the final adjustment of all their existing difficulties; that this delegation are instructed to confer with the Cherokees west of the Mississippi, on the subject of their acting in concert for the interests and happiness of the whole Cherokee family; that any irresponsible individuals assuming to themselves the power to act in the name of the nation, without authority first legitimately obtained, will be deemed guilty of infringing the prerogatives of the nation, and violating the rights of the Cherokee people, who will assuredly never sanction such usurpation, nor acquiesce in the doings of such persons. That, in the course they have adopted in reference to the instrument in question, no departure from the most respectful and friendly feelings towards the President, the Government, and the people of the United States, is contemplated; but, on the contrary, their determination is to maintain and cultivate those friendly relations which have long subsisted between the Government and people of the United States and their nation. That, in compliance with a law of Congress, which directs that Indian annuities shall be paid to the chiefs, or such persons as the tribe shall appoint, the above-named delegation have been authorized and appointed to receive from the proper officers of the Government of the United States all sums of money due the Cherokee nation east of the Mississippi, and to receipt for the same, for and on account of the said Cherokee nation. That the doings of the general council now assembled render the meeting of the committee and council, on the second Monday in October next, inexpedient; and said meeting is therefore dispensed with.

In thus frankly communicating the sentiments of the Cherokee people, and the doings of the general council, the undersigned beg leave to reassure you that they are actuated from the purest motives and the most friendly feelings towards the public functionaries and the private citizens of the United States; that the only hope of the Cherokees for a further hearing from the Government on the subject of their grievances, and for a more satisfactory and final adjustment of their existing difficulties, rests on the justice of their cause, and the unremitting confidence entertained in the good faith and magnanimity and justice of the President and the Congress of the United States; and to realize which, they desire that the whole truth may be fairly stated respecting the manner and circumstances under which the instrument complained of was negotiated, and that the same may be fully understood and impartially investigated. The Cherokees are deeply sensible of their peculiar and dependent situation; consequently, they are not ignorant that their very existence as a people is at the mercy of the United States, and subject to their will and pleasure. Their course is plain, and has ever been directed in the path of peace and friendship, though not influenced by the dastardly feelings of fear, but by those pleasing ties of confidence and social relations which have so long and so happily subsisted between them and their white brethren. Much may be said by way of objections in detail of the instrument in question, but it is deemed unnecessary. The mutual interests and welfare of the whole Cherokee family, those in the east as well as those in the west, would require that, in any final arrangement, their approbation should be equally consulted, in order that harmony among themselves may be ensured; policy as well as common justice would seem to require this. In conclusion, will you please to permit us to state, that, in compliance with the desire of the Cherokees of the valley towns, it is respectfully asked that their guns may now be restored to them, which have been surrendered up in compliance with your orders, as it is to be hoped there will not be found any necessity for retaining them longer. The undersigned beg you to accept their cordial thanks and sincere regard for your honorable course in the discharge of your military duties here, and also for the gentlemanly deportment of the officers, and the orderly conduct of the soldiers under your command, during the sitting of the general council.

With great respect, they have the honor to be, sir, your obedient, humble servants,

National Council.

Going Snake, *Speaker*.
Archibald Campbell.
The Bark.
Chunulgee.
Young Glass.
Sleeping Rabbit.
John Watts.
James Spears.
Sitewakee.
Charles.
Chuwalooskee.
John Wane.
White Path.

National Committee.

John Ross, *Principal Chief*.
George Lowrey, *Assist. Prin. Chief*.
Richard Taylor, *President*.
Thomas Foreman.
George Still.
James Hawkins.
Nahhoolah.
John F. Baldridge.
Old Fields.
Hair Conrad.
Chunoolleheskee.
James D. Wofford.
Stephen Foreman, *Clerk*.

John Otterlifter.

Soft-shell-turtle.

Bean Stick.

Walking Stick.

Taquoh.

Money Crier.

Jesse Bushyhead, *Clerk National Council.*

To Brig. Gen. JOHN E. WOOL,

Commanding U. S. army in the Cherokee Nation.

Copy of the resolutions and memorial adopted by the Chiefs, Committee and Council, and the people of the Cherokee nation in General Council assembled at Red Clay, Cherokee nation, on the 28th September, 1836 ; and signed by about 2,245 male adults.

Whereas, an instrument has been read and interpreted to us, purporting to be a treaty made at New Echota, on the 29th day of December, 1835, by the Reverend John F. Schermerhorn, commissioner of the United States, and the chiefs, headmen, and people of the Cherokee tribe of Indians, ratified by the Senate and approved by the President of the United States : And whereas, by the provisions of this instrument, all the lands of the Cherokees are ceded to the United States ; the private improvements and possessions of individuals unjustly alienated from their respective owners ; the rights of the Cherokees as freemen wrested from the guardianship of their legitimate representatives, and the management of their affairs placed in the hands of individuals without responsibility, and under the control of officers of the United States Government : And whereas the makers of said compact, who are represented as acting on the part of the Cherokees, and who assume the style of chiefs and headmen, hold no such title or designation from the Cherokees, nor have they received authority from the nation to form said instrument :

Resolved, therefore, by the chiefs, national committee and council, and the people of the Cherokee nation in general council assembled, That the said instrument is null and void, and can never, in justice, be enforced upon our nation ; and we do hereby solemnly disclaim and utterly reject said instrument in its principles and all its provisions.

Resolved, That a respectful memorial to the Government of the United States be prepared on behalf of the Cherokee people, praying that the said instrument be set aside, as a fraud upon the Government of the United States, and an act of oppression on the Cherokee people.

Resolved, That a delegation consisting of John Ross, principal chief, Richard Taylor, Samuel Gunter, George Sanders, Walter S. Adair, John Benge, Stephen Foreman, and James Brown, be invested with full powers to represent the Cherokee people before the Government of the United States, and to enter into arrangements for the final adjustment of all their existing difficulties.

And be it further resolved, That the said delegation be, and they are hereby, instructed to confer with the Cherokees west of the Mississippi, on the subject of their acting in concert with us in our efforts to procure the rescinding of said instrument ; which, in its provisions, is calculated to af-

fect injuriously the interests and happiness of both parts of the Cherokee family.

Resolved, That any irresponsible individuals assuming to themselves the power to act in the name of our nation, without the authority of the same first legitimately obtained, will be deemed guilty of infringing the prerogatives of the Government and violating the rights of the Cherokee people, who will assuredly never sanction such usurpation nor acquiesce in the doings of such persons.

Resolved, That in the course we have adopted in reference to the instrument in question, no departure from the most respectful and friendly feelings towards the President, the Government, and the people of the United States, is contemplated; but, on the contrary, our determination is to maintain and to cultivate those friendly relations which have long subsisted between the Government and people of the United States and our nation.

And be it resolved, by the committee and council aforesaid, with the concurrence of the people of the Cherokee nation in general council assembled, That in compliance with a law of Congress, which directs that Indian annuities shall be paid to the chiefs or such persons as the tribe shall appoint, the aforesaid delegation, consisting of John Ross, principal chief, Richard Taylor, Samuel Gunter, George Sanders, Walter S. Adair, John Benge, Stephen Foreman, and James Brown, be, and they are hereby, authorized, under the direction of John Martin, the treasurer of the Cherokee nation, to apply to the Government of the United States, or to the proper officers thereof, and to receive all sums of money due to the said Cherokee nation east of the Mississippi from the United States, and to receipt for the same, for and on account of the said Cherokee nation.

Resolved, That the doings of the general council now assembled render the meeting of the national committee and council on the second Monday in October next inexpedient. The said meeting is therefore hereby dispensed with.

RED CLAY COUNCIL GROUND,

Cherokee nation east, September 28, 1836.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled,

MOST RESPECTFULLY AND MOST HUMBLY SHEWETH :

That your memorialists, the chiefs, national committee and council, and people of the Cherokee nation in general council assembled, solicit permission to approach your honorable bodies, under circumstances peculiar in the history of nations; circumstances of distress and anxiety beyond our power to express. We earnestly bespeak your patience, therefore, while we lay before you a brief epitome of our griefs.

It is well known that for several years past we have been harassed by a series of vexations, which it is deemed unnecessary to recite in detail; but the evidence of which our delegation will be prepared to furnish.

With a view of bringing our troubles to a close, a delegation was appointed on the 23d of October, 1835, by the general council of the nation, clothed with full powers to enter into arrangements with the Government of the United States for the adjustment of all our existing difficulties.

The delegation, failing to effect an arrangement with the United States' commissioner, then in the nation, proceeded, agreeably to their instructions in that case, to Washington city, for the purpose of negotiating a treaty with the authorities of the United States.

After the departure of the delegation, a contract was made by the Rev. John F. Schermerhorn and certain individual Cherokees, purporting to be "A treaty concluded at New Echota, in the State of Georgia, on the 29th day of December, 1835, by General William Carroll and John F. Schermerhorn, commissioners on the part of the United States; and the chiefs, headmen, and people of the Cherokee tribe of Indians." A spurious delegation, in violation of a special injunction of the general council of the nation, proceeded to Washington city with this pretended treaty, and, by false and fraudulent representations, supplanted in the favor of the Government the legal and accredited delegation of the Cherokee people, and obtained for this instrument, after making important alterations in its provisions, the recognition of the United States Government; and now it is presented to us as a treaty, ratified by the Senate and approved by the President, and our acquiescence in its requirements demanded, under the sanction of the displeasure of the United States, and the threat of summary compulsion in case of refusal. It comes to us, not through our legitimate authorities, the known and usual medium of communication between the Government of the United States and our nation; but through the agency of a complication of powers, civil and military.

By the stipulations of this instrument, we are despoiled of our private possessions, the indefeasible property of individuals. We are stripped of every attribute of freedom and of eligibility for legal self-defence. Our property may be plundered before our eyes; violence may be committed on our persons; even our lives may be taken away, and there is none to regard our complaints. We are denationalized; we are disfranchised; we are deprived of membership in the human family; we have neither land; nor home, nor resting-place, that can be called our own. And this is effected by the provisions of a compact which assumes the venerated, the sacred appellation of "treaty."

We are overwhelmed; our hearts are sickened; our utterance is paralyzed, when we reflect on the condition in which we are placed by the audacious practices of unprincipled men, who have managed their stratagems with so much dexterity as to impose on the Government of the United States, in the face of our earnest, solemn, and reiterated protestations.

The instrument in question is not the act of our nation. We are not parties to its covenants. It has not received the sanction of our people. The makers of it sustain no office nor appointment in our nation under the designation of chiefs, headmen, or any other title, by which they hold, or could acquire, authority to assume the reins of government, and to make bargain and sale of our rights, our possessions, and our common country. And we are constrained solemnly to declare that we cannot but contemplate the enforcement of the stipulations of this instrument on us, against our consent, as an act of injustice and oppression, which, we are well persuaded, can never knowingly be countenanced by the Government and people of the United States; nor can we believe it to be the design of those honorable and high-minded individuals, who stand at the head of the Government, to bind our whole nation by the acts of a few unauthorized individuals. And therefore we, the parties to be affected by the result,

appeal, with confidence, to the justice, the magnanimity, the compassion of your august and honorable assemblies, against the enforcement on us of the provisions of a compact, in the formation of which we have had no agency. In truth, our cause is your own. It is the cause of liberty and justice. It is based upon your own principles, which we have learned from yourselves; for we have gloried to count your Jefferson and your Washington our great teachers. We have read their communications to us with veneration; we have practised their precepts with success; and the result is manifest. The wildness of the forest has given place to comfortable dwellings and cultivated fields, stocked with the various domestic animals. Mental and moral culture, industrious habits, and domestic enjoyments, have succeeded to the rudeness of the savage state.

We have learned your religion, also; we have read your sacred books. Hundreds of our people have embraced their doctrines, practised the virtues they teach, cherished the hopes they awaken, and rejoiced in the consolations which they afford. To the spirit of your institutions and your religion, which has been imbibed by our community, is mainly to be attributed that patient endurance which has characterized the conduct of our people under the lacerations of their keenest woes; for assuredly we are not ignorant of our condition, we are not insensible to our sufferings. We feel them; we groan under their pressure; and anticipation crowds our breasts with sorrows yet to come. We are, indeed, an afflicted people. Our spirits are subdued. Despair has well-nigh seized upon our energies. But we speak to the representatives of a Christian people, the friends of justice, the patrons of the oppressed; and our hopes revive, and our prospects brighten, as we indulge the thought. On your sentence our fate is suspended. Prosperity or desolation depends on your word. To you, therefore, we look. Before your august assemblies we present ourselves, in the attitude of deprecation and of entreaty. On your kindness, on your humanity, on your compassion, on your benevolence, we rest our hopes. To you we address our reiterated prayers. Stop the progress of the gathering storm! Stay the hand of destruction! Spare our people! Spare the wreck of our prosperity! Let not our deserted homes become the monuments of our desolations! But we forbear. We suppress the agonies which wring our hearts when we look at our wives, and our infants, and our venerable sires. We restrain the forebodings of anguish and distress, of misery and devastation and death, which must be the attendants on the execution of this ruinous compact.

In conclusion: we commend to your confidence and favor our well-beloved and trustworthy brethren and fellow-citizens, John Ross, principal chief, Richard Taylor, Samuel Gunter, John Benge, George Sanders, Walter S. Adair, Stephen Foreman, and Kalsateehee of Aquohee, who are clothed with full powers to adjust all our existing difficulties; by treaty arrangements, with the United States; by which our destruction may be averted, impediments to the advancement of our people removed, and our existence perpetuated, as a living monument, which shall testify to posterity the honor, the magnanimity, the generosity of the United States. And your memorialists, as in duty bound, will ever pray.

Resolutions of the Western Cherokees in Council assembled; 8th December, 1836.

Whereas, the instrument purporting to be a treaty made at New Echota, on the 29th day of December, 1835, by General William Carroll and John F. Schermerhorn, commissioners on the part of the United States, and the chiefs, headmen, and people of the Cherokee tribe of Indians, ceding to the United States all the lands owned, claimed, or possessed by the Cherokee nation east of the river Mississippi, and providing for their removal to the country designated and set apart for the Cherokees west, under former treaties: And whereas the chiefs, national committee and council, and the people of the Cherokee nation east, in general council assembled at Red Clay on the 28th of September, 1836, have solemnly declared that the makers of said compact, who are represented as acting on the part of the Cherokees, and who assume the style of chiefs and headmen, hold no such title or designation from the Cherokees, nor have they received authority from the nation to form said instrument, and therefore disclaim and utterly reject the same in its principles and all its provisions: And whereas a delegation have been appointed to make a respectful memorial to the Government of the United States, in behalf of the Cherokee people, praying that the said instrument be set aside, as a fraud upon the Government of the United States and an act of oppression on the Cherokee people, and invested with full powers to enter into arrangements for the final adjustment of all their difficulties: And whereas said delegation have, in pursuance of their instructions, conferred with us on the subject of our acting in concert with them in their efforts to procure the rescinding of said instrument, which, in its provisions, is calculated to affect injuriously the interests and happiness of both parts of the Cherokee family: Therefore,

Resolved by the chiefs, committee, and council of the Cherokee nation west of the Mississippi river in council assembled, That the course adopted by the general council of the Cherokee nation east, in regard to the instrument aforesaid, is hereby approved; and, inasmuch as said instrument is equally objectionable to us, and will, in its enforcement, also affect our best interests and happiness,

Resolved, That a delegation, consisting of John Looney, third chief, John Drew, Joseph Vann, Aaron Price, and William Dutch, be, and they are hereby, appointed to represent the Cherokee nation west, before the Government of the United States, and to co-operate with the delegation from the east of the Mississippi, consisting of John Ross, Samuel Gunter, James Brown, John Benge, George Sanders, and others, in their exertions to procure the rescinding of the aforesaid instrument; and also with full powers to unite with the delegation aforesaid in any treaty arrangement which they may enter into with the Government of the United States for the final adjustment of the Cherokee difficulties, and to promote the advancement of the best interests and happiness of the whole Cherokee people; and to do all things touching the affairs of the Cherokees west, for their welfare.

Be it further resolved, That the delegation aforesaid be, and they are hereby, authorized to receive from the chiefs all the public moneys in their hands, to defray their expenses, and also to draw on the Government

of the United States for the annuities, or such other sums of money as may be necessary to defray the expenses of said delegation.

CHEROKEE COUNCIL HOUSE,

Tolluntusky, west of the river Mississippi, December 8, 1836.

Signed by the committee and council of the Cherokee nation west.

GEORGE GUESS,	his x mark.
TOBACCO WILL,	his x mark.
AARON PRICE,	his x mark.
JOHN ROGERS,	his x mark.
WILLIAM ELDERS,	his x mark.
CHARLES RODGERS,	his x mark.
MAJOR PULLUM,	his x mark.
WILLIAM DUTCH,	his x mark.
CHARLES CAMPBELL,	his x mark.
JAMES CAREY,	his x mark.
GEORGE BREWER,	his x mark.
CLIMBING BEAR,	his x mark.
JOHN DREW.	

Approved and signed by the chiefs of the western Cherokee nation.

JOHN JOLLY,	(his x mark) 1st Chief.
JOHN BROWN,	2d Chief.
JOHN LOONEY,	(his x mark) 3d Chief.

Proceedings of the Cherokee nation in General Council at Red Clay, August 8, 1837.

Whereas, at a general council of the Cherokee nation, holden at Red Clay, in September, 1836, the sentiments of the Cherokee people, in regard to an instrument purporting to be a treaty made at New Echota, by General William Carroll and John F. Schermerhorn, commissioners on the part of the United States, and the chiefs, headmen, and people of the Cherokee tribe of Indians, were deliberately expressed in a series of resolutions, accompanied by a memorial addressed to the Government of the United States, solemnly protesting against the said instrument as unauthorized by our people, and consequently destitute of any binding force on us: And whereas, a delegation was then appointed to represent the Cherokee people before the Government of the United States, vested with full powers to enter into negotiations with the authorities of the said Government for the final adjustment of all our difficulties: And whereas, the said delegation have submitted to this council a full report of their doings in the prosecution of the duties with which they were charged; and it appearing from said report, for causes therein assigned, that the business of their mission remains in an unfinished state, and that nothing definitive has yet been effected: And whereas, our sentiments on the subject have undergone no change, and that our earnest desire still is to have our difficulties brought to a

close as speedily as practicable, consistently with the permanent welfare of the Cherokee people: therefore,

Resolved by the chiefs, national committee and council, and people of the Cherokee nation, in general council assembled, That John Ross, principal chief, Richard Taylor, Samuel Gunter, James Brown, Edward Gunter, Elijah Hicks, Sitawakee, and White Path, be, and they are hereby, appointed to represent the Cherokee people before the Government of the United States; and that they be, and they are hereby, vested with full powers to prosecute to maturity the unfinished business now before the said Government, and to do all other acts which may be necessary, on the part of the Cherokee nation, for the final adjustment of every matter mutually interesting to the United States and the Cherokee nation; therefore

Resolved further, That our highly esteemed and trustworthy brethren and fellow-citizens above named be, and they are hereby, respectfully commended to the favorable regard and confidence of the authorities of the Government of the United States.

Resolved, That, for our sentiments in detail, we refer to the resolutions and memorial of September, 1836, and to the delegation now appointed to represent us before the Government.

Resolved, That the doings of the delegation who have just reported meet the unqualified approbation of this council, for which they are entitled to our thanks, which are hereby affectionately and respectfully tendered to them.

Resolved, That John Ross, Richard Taylor, Samuel Gunter, James Brown, Edward Gunter, Elijah Hicks, Sitawakee, and White Path, be, and they are hereby, authorized to receive, on behalf of the Cherokee nation, and to receipt for the same, any moneys due, or which may become due on any account whatever, from the United States to the Cherokee nation.

Resolved, That the annual meeting of the committee and council on the second Monday of October next be, and it is hereby, dispensed with.

RED CLAY COUNCIL GROUND, August 8, 1837.

RICHARD TAYLOR,

President of the National Committee.

Members of the Committee.

Richard Fields,
Elijah Hicks,
Thomas Foreman,
Hair Conrad,
John F. Baldridge,
Samuel Gunter,
Old Fields,

George Still,
William Proctor,
Calsut-e-hee,
Na-hoo-lah,
Tsunoolaskee,
George Hicks, and
James Hawkins.

STEPHEN FOREMAN,

Clerk of the Committee.

GOING SKAKE,
Speaker of the Council.

Members of National Council.

John Watts,
James Spens,

Archibald Campbell,
The Glass,

John Otterlifter,
 White Path,
 Chu-de-quah-na-cah,
 Tarquoh,
 Denahlawesta,
 Rackoon,
 Bean Stick,
 Walking Stick,
 The Bark,
 Money Crier,

Deketsulaskee,
 Sleeping Rabbit,
 Tsuwalooke,
 Charles,
 John Owain,
 Sitawakee,
 Peter,
 Sweet Water,
 Oolenawah,

JESSE BUSHYHEAD,
Clerk National Council.

JOHN ROSS,
Principal Chief.

GEORGE LOWRY,
Assistant Principal Chief.

EDWARD GUNTER,
 LEWIS ROSS,
Executive Council.

Adopted by us the undersigned Cherokee people.

And signed by about 2,085 men of the Cherokee people present, exclusive of the names above inserted of the chiefs and members of the general council, as may be seen by referring to the original document, which is submitted to the Senate.

THE CHEROKEE DELEGATION.

No. 1.

WASHINGTON CITY, *March 16, 1837.*

SIR: The undersigned, representatives of the Cherokee nation east and west of the river Mississippi, beg leave herewith to lay before you their credentials; and, also, to submit through your Department the enclosed communication for the consideration of the President of the United States. Trusting, from the importance of the subject, that a reply embracing the decision of the Executive will be returned as soon as practicable,

With great respect,

We have the honor to be, sir,

Your obedient servants,

JOHN ROSS,
 R. TAYLOR,
 JAMES BROWN,
 SAMUEL GUNTER,
 JOHN BENGE, his x mark.
 GEORGE SANDERS, his x mark.
 JOHN LOONEY, his x mark.
 AARON PRICE, his x mark.
 WILLIAM DUTCH, his x mark.
 WILLIAM S. COODY.

HON. JOEL R. POINSETT,
Secretary of War.

WASHINGTON, *March 16, 1837.*

SIR : The people constituting the Cherokee nation beg leave to congratulate you on your accession to the lofty and dignified situation which you have been called upon by your countrymen to fill. That this event may prove, under the blessing of Providence, equally beneficial to those over whom you now preside, as honorable to the individual upon whom so valued a trust has been reposed, is our most earnest and sincere prayer.

Among those who have been placed under your protecting influences, may we not be permitted to number ourselves; and may we not be allowed, after the manner of our fathers, to address the President of the Union as their guardian and their friend, as holding in his hands the equal scales of justice, and the power to enforce his decisions?

It is in this character that the Cherokee nation venture to approach the Executive to ask for a hearing, that their claims be investigated, and that such measure of justice be meted to them as shall appear to be due. Beyond this, they have nothing to ask; within these limits, they will not indulge an apprehension that they shall meet with a refusal.

The undersigned have been, in full council of the nation, appointed a delegation to confer with the Executive: they are clothed with powers to open negotiations, and to adjust, upon the most liberal terms, all the subjects in which the United States take an interest.

The Government has been apprized in part of the insuperable objections to the acknowledgment by the nation of the (so called) treaty submitted to the Senate for its ratification in 1836. If you will listen to us, we will briefly refer to some of them; and we beg your excellency to understand us, in this matter, as speaking what we believe to be the feeling and language of more than nine-tenths of our nation. The individuals who now address you as the representatives of the Cherokee nation are, in a degree, the same who, under a similar authority, came to the seat of Government during the latter part of the year 1835, for the purpose of executing the same duties with which they are now charged. The circumstances which induced them thus to visit Washington are detailed in their memorial to the Senate during its then session. Subsequent to the annunciation of their plan of operations, an individual hastened on in advance of them, and returned with great rapidity, the bearer of communications expressive of the wish of the Executive that we should abandon this idea, and negotiate in the nation itself. Apprehensive of some misunderstanding on the subject, and finding it too late to institute a new plan of operations, we proceeded on our journey, and reached the seat of Government.

Our reception was kind, and we were acknowledged to be entitled to the character which we claimed to possess. Our credentials were exhibited, and, in an official interview with the President, we were informed by him that whenever we should present any proposition for the consideration of the Government, through the War Department, it should be immediately attended to.

While engaged in preparing our communications, in pursuance of this proffer, we learned that intelligence had been received that a treaty had, in fact, been entered into at New Echota. It was from this period that our troubles began to assume a more positive character.

To this instrument, subsequently received, and, after many most material changes in its substantia provisions, submitted to the Senate for its

ratification, are we to attribute the distress under which our nation now labors, and the dangers which impend over us.

The Cherokee nation never authorized the formation of this spurious compact. They never conferred upon the individuals who signed it any authority to give it their assent. They have never recognised its validity, and never can. They have protested against it as a fraud upon themselves and upon the United States. They have proffered themselves able to establish all these allegations by the most abundant proof. They ask of you, sir, that these allegations be examined fully, and by impartial individuals enjoying your entire confidence. By the results of such an investigation, by your own judgment upon the fairness, the justice, the legality of this act, and the proceedings connected with it, they must necessarily abide. Will the Government of the United States claim the right to enforce a contract thus assailed by the other nominal party to it? Will they refuse to examine into charges of such grave import? Will they act in matters so momentous, involving consequences so awful, without inquiry? The memorials we have so fondly cherished of the affectionate feelings, the pure virtue, the justice, which have been exhibited towards our people by Washington, by Jefferson, and others, your honored predecessors; the faith of the Government, so repeatedly and so solemnly pledged to our fathers and ourselves; the sanctions of that holy religion which you have taught us, in which we have learned so to do unto others as we should wish them to do unto us: all forbid us to apprehend that the United States will knowingly and deliberately wrong those who have aided them in their hour of peril—who have leaned upon their protecting arm—who have confided in their friendship—who have trusted every thing to their honor and their justice.

On such an occasion as the present, we shall not intrude upon your valuable time by presenting in detail all the circumstances upon which the Cherokee nation rest their objections to the paper called the treaty of New Echota. At the same time we feel it a duty we owe to you as well as to ourselves not to leave this matter resting upon generalities, however strong, without some degree of specification.

1st. We aver that the Cherokee nation never authorized its formation.

In all negotiations with ourselves, and, we believe, every other Indian nation, the Government of the United States have conducted them with the regularly authorized agents of the other party. The internal arrangements of our nation, by which certain persons are clothed with powers to represent and act for the whole, have been long known and constantly recognised. No Government has ever claimed the right to pass the regular representatives of another people, to carry on negotiations with any who may claim, without exhibiting, full authority from those whom they profess to represent, and whom they undertake to bind.

In this instance, those who were regularly invested with this authority were at Washington. The initiatory steps had been taken to commence negotiations. Were the powers which had been given, and which were then in the act of being exercised, ever revoked or suspended? We have never heard of any such proceeding. All that we have heard, and all that we have seen, negatives such an idea. The letter from Mr. Secretary Cass, of January 16, 1836, which announces to us that Mr. Schermerhorn had reported the formation of the treaty, is addressed to us in our official character. The letter of the 13th of February apprizes us, for the first time, that this official character cannot be recognised. If the pro-

ceedings at New Echota were not in fact the authoritative proceedings of the nation, they must be disregarded, as inadequate to operate a cancellation of our powers.

Admitting, however, for a moment, that those proceedings were regular, the parties who came on as delegates under the council of New Echota, on the 6th of February, 1836, address a letter to the Cherokee delegation now in Washington city, in which they speak of "your constituents at home," and in which they assure us that "in doing what the people have done at New Echota, it was with no view to lay any obstacles in your way." In a subsequent passage they say, "we assure you of the heartfelt satisfaction that it would give us, and certainly our constituents, if you have settled or *can settle* our difficulties with the Government by a treaty." Still further, "we are instructed, in case that you have not already made or are [not] able to make a better;" and they conclude with a proffer of any assistance in their power to those whom they address.

It would be difficult to gather from this communication the fact that "our constituents" had revoked the powers which had been previously given. The continuance of them is expressly recognised.

The letter of E. Herring, of February 13, 1836, which first informs us that our official character is denied, places such denial upon the single ground of our having come on to Washington after being notified by the President that a delegation would not be received in Washington. We were also informed by the Secretary that Mr. Schermerhorn had contemplated bringing a delegation from the other Indians of the Cherokee nation, but that he had instructed him not to bring on a single person. To us, not very conversant with such matters, and to whom this species of difficulty was equally unknown and unexpected, it wore the appearance of singularity, that, notwithstanding the prohibition to Mr. Schermerhorn, he did, in fact, bring with him what purported to be a delegation; that they were received as such; and that, although Mr. Herring, in his letter of the above date, appears to draw a distinction between their case and our own, they were sent on to effect a ratification, and not to make a new treaty. Yet, when, by the absolute refusal of the President to recognise some of the most prominent provisions in that instrument, and in reference to which the council from which they received their authority had been so distinct in the expression of their views, and in which the commissioner did not appear to think he had transcended his powers, so that it became necessary, in fact, to make substantially a new arrangement, these objections were all permitted to sleep, so far as regards them. Even in relation to those who held the first authority, the ground was changed in the very same letter of Mr. Herring, who informed us that, provided we would sign the treaty as it then was, we also should be recognised.

If, under all these circumstances, we have been unable distinctly to understand the views of the Government, or to reconcile all their proceedings with what appeared to us to be their language, the whole difficulty ought not to be attributed to any deficiency on our part.

In point of fact, however, the meeting at New Echota did not fully represent the Cherokee nation. Statements have been made from different sources, showing the number there present. The largest number, including men, women, and children, Indians and negroes, does not exceed seven hundred; while highly respectable witnesses positively aver that not more than three hundred assembled, and only seventy-nine approved

of what was done. In determining whether such an instrument imposes on the Cherokee nation the obligation of performing its stipulations, surely it is important to understand by how many it was sanctioned, and by what authority they undertook to bind others who were not professed parties. The very manner in which these proceedings purport to be verified is so singular to our eyes, so different from what has been customary on similar occasions, that this circumstance alone is calculated to awaken suspicion and to strengthen our statements.

Sustained, however, as we are, we unhesitatingly assert the fact, that less than one hundred individuals of the Cherokee nation, irregularly convened and acting irregularly, ever sanctioned this instrument so far as even to assent to the appointment of the individuals by whom it was signed.

This we consider as not only unjust to us, but equally so to the United States. In the instructions given to the commissioners, it is expressly stated, that, "although there can be no objection to a free interchange of opinion, and a conditional arrangement on all disputed points between them and a committee fairly and publicly chosen, (should the Cherokees think it proper to commit the details, in the first instance, to such a committee,) yet the *final action* upon the subject must be had by the people themselves in open council." If there is any dispute as to the decision of the majority, an actual census will be taken of the persons present, exhibiting their names; and they will pass before the commissioners, and state whether they are in favor of or against the arrangement proposed; and this census, together with the result, will be certified by the commissioners, and transmitted with their other proceedings to the seat of Government. In a previous communication made by these same commissioners to one of the undersigned, as the *principal chief* of the Cherokee nation, it was distinctly asserted, that "the commissioners, in their instructions, *are required to obtain the consent of a majority of your headmen and warriors to a treaty, to make it valid*; and, for this purpose, it is necessary to have an accurate census of the nation taken now." In the address of the President of the 16th of March, 1835, to the nation, we were given to understand that with the nation at large rested the power of ultimately acceding to, or not, the proposed terms. It was the understanding of this delegation and of the nation that this course should be pursued; and the very notice under which the council at New Echota was convened, called upon the individuals of the nation to act for themselves in the business, and implied the right of the nation collectively to assent to or dissent from the terms proposed.

If, after all this public and mutual understanding, an instrument, which originated in a meeting where not one-twentieth part of the nation was convened, most essentially varied after having been submitted to their inspection, and ultimately approved only by the small number who actually affixed their signatures to it, can be considered obligatory upon the whole Cherokee nation; upon the same principle, another compact which we may choose to sign with any twenty citizens of the United States, holding no public station, authorized by no national act, might, had we the power, be enforced against you, to the extent of stripping every citizen of his home and of his property.

2d. Nor can there be any foundation for the belief that the Cherokee nation have ever assented to the instrument in question by any subsequent act which could be considered as a ratification. The whole nation had been led to believe, from the official language addressed to them, that,

whatever might be done by any of their agents, would not be held obligatory until it had received the approbation of the nation. Not only has no such sanction ever been obtained, but it has never been asked at their hands. So far from this being the case, every means has been resorted to to stifle the expression of public opinion among them.

A large body of troops has been stationed in the Cherokee nation, prepared to put down any meeting convened to deliberate upon the subject. The commanding general, whose high character is a guaranty that he is acting in obedience to precise instructions, in his general order of November 3, 1836, has, in terms too plain and significant to be misunderstood, apprized us of the consequences which will follow any attempt to ascertain and concentrate the opinions of our people. Several instances have already occurred, in which arrests have been made of individuals supposed to be inimical to the treaty, as it is called. In short, the whole weight and influence of the Government have been exerted to aid the small faction which has usurped the right to bind us, to alarm the timid, to overpower the resolute, to persuade the confiding, to compel the weak among us to give their sanction to this instrument: with what success, the Government of the United States has been apprized. We hold in our hands a document, showing that the great bulk of the nation has repudiated the measure; that it denies its obligatory force; that it refuses to ratify the act. Within a few weeks since, the undersigned have been at the seat of government, at a special meeting of the nation, held at New Echota, convened by the agent, and held in the presence of the commanding general, when the question was presented for their decision as to the disposition to be made of the money due the nation under former treaties: it was found but ninety-seven votes could be procured in favor of the individuals who had assumed to act as the agents and representatives of the nation; and of this small number, no one voted in the regular way, and upon the ground; while twelve hundred and sixty-nine gave their votes against this party. Such, as we are informed, was the result of the meeting on the 15th ultimo.

These are, we submit to your excellency, manifestations not to be misunderstood of the state of opinion and of feeling among us. We are aware that efforts have been made to injure us in the estimation of this Government. As individuals, our characters have been assailed, our motives misrepresented, our conduct and our acts distorted. We cannot, however, but believe that, among the many high-minded and honorable men who know us, and who enjoy your confidence, some may be found who have done and will do us justice. We do not arrogate to ourselves so high a standing in your estimation as to authorize us to ask that you will rely implicitly upon our statements; but we have deceived ourselves most egregiously if we have not presented to the consideration of the Government sufficient grounds to induce hesitation and inquiry. You have at your command hundreds of individuals to whom you may confide the duty of making the investigation which we solicit. Select such as you can implicitly believe; associate with them but a single individual to be appointed by us, to direct to the sources of information; and if we fail to establish the truth of our allegations, we shall no longer ask you to delay exercising your power in the enforcement of your rights. Should it, however, appear, from such investigation, that this instrument has been made without authority; that it meets with the almost unanimous reprobation of our nation; that you have been deceived by false information; we cannot and we will not believe that, under its color, and under the sanction of those

principles of justice which impose an obligation faithfully to perform our compacts and our promises, we shall be forced to submit to its iniquitous provisions. Sooner would we ask you to make no investigation, institute no inquiry. Satisfy yourselves ; endeavor to satisfy mankind and your God that all is right ; assert the imperative duty of conforming to treaty stipulations ; stand upon the high ground of power ; employ your strength, and drive to desperation, to exile, and to death, those whom you have called your children, and who have placed themselves under your protection. Our fate is in your hands : may the God of truth tear away every disguise and concealment from our case ; may the God of justice guide your determination ; and the God of mercy stay the hand of our brother, uplifted for our destruction.

During the recent session of Congress, the undersigned addressed a memorial to that honorable body. The late period of the session, and the multiplied engagements which attend such a period, precluded any definitive action upon it. In the Senate, it was merely ordered to lie upon the table ; and in the House of Representatives, no opportunity occurred to present it. At the ensuing session, it will be again submitted, should it, contrary to all our hopes, be then considered necessary. We have the honor of submitting a copy of that memorial to your excellency, and pray for that your most earnest consideration. The documents we have with us, and which have been seen by the Commissioner of Indian Affairs and by the Secretary of War, show that we are now fully empowered, as we were in 1835, to negotiate upon all matters with the United States. We are prepared, at once, to enter upon such negotiation ; and we believe that all difficulties may be arranged to the mutual satisfaction of all parties.

In conclusion, we pray your excellency to understand our propositions as being specifically, either—

1st. To enter into a negotiation with the undersigned, in reference to every matter mutually interesting to the United States and the Cherokee nation :

2d. To have a full and impartial examination of all sources of information, for the purpose of ascertaining whether the Cherokee nation, in conformity with its political institutions and forms, long recognised by the United States, ever authorized the execution of the instrument signed at New Echota, and the additional articles signed at Washington, or ever gave to them their sanction and ratification : or

3d. That the instrument in question be now submitted for approval or rejection, to the full, free, and unbiased choice of the Cherokee nation in general council assembled.

We have the honor to be, sir, very respectfully, &c.

JOHN ROSS,

R. TAYLOR,

JAMES BROWN,

SAMUEL GUNTER, his x mark.

JOHN BENGE, his x mark.

GEORGE SANDERS, his x mark.

Representatives of the Eastern Cherokees.

JOHN LOONEY, his x mark.

AARON PRICE, his x mark.

WILLIAM DUTCH, his x mark.

W. S. COODY,

Delegates from the Western Cherokees.

To the PRESIDENT of the United States.

No. 3.

WAR DEPARTMENT, *March 24, 1837.*

GENTLEMEN: Your memorial of the 16th instant, addressed to the President of the United States, has been laid before him; and I now proceed to communicate to you his decision upon the propositions you have submitted.

The treaty concluded at New Echota, on the 29th of December, 1835, has been ratified, according to the forms prescribed by the constitution; and it is the duty of the Executive to carry into effect all its stipulations, in a spirit of liberal justice. The considerations to which you have invited the attention of the President were brought to the notice of the Senate, before they advised its confirmation, and of the House of Representatives, before they made the appropriations therein provided for. Their final action must be regarded as the judgment of these branches of the Government, upon the degree of weight to which they were entitled. It remains for the Executive to fulfil the treaty, as the supreme law of the land.

Your second and third propositions, therefore, it is considered, cannot be acceded to, as they involve an admission that the treaty of 1835 is an incomplete instrument. To your first proposition I can only answer, as the Department has already assured you, that any measure suggested by you will receive a candid examination, if it be not inconsistent with, or in contravention of, the provisions of the existing treaty.

Very respectfully,

Your most obedient servant,

J. R. POINSETT.

MESSRS. JOHN ROSS,
R. TAYLOR,
JAMES BROWN,
SAMUEL GUNTER,
JOHN BENGE,
GEORGE SANDERS,
JOHN LOONEY,
AARON PRICE,
WM. DUTCH, and
WM. S. COODY.

*Eastern and Western Cherokees,
Washington.*

No. 4.

WASHINGTON CITY, *May 4, 1837.*

SIR: Since taking leave of you, and my separation from those of my colleagues who have returned homewards, it has become my duty to address you this letter, previous to my leaving the metropolis of the United States for the Cherokee nation.

I will not occupy your attention with a recapitulation of all that passed between us at our several interviews on the subject of Cherokee affairs. Being informed that General Wool will be relieved of his military duties in

the Cherokee country by Colonel Lindsay, I beg leave to call your attention to certain acts of oppression and injustice complained of by the Cherokees, and to ask that justice may now be extended in reference to them.

In the summer of 1835, the Georgia guard, under the command of Colonel William N. Bishop, by authority of Mr. Benjamin F. Currey, then superintendent of Cherokee removals, forcibly seized the printing-press, types, books, papers, and other materials pertaining to a printing-office, belonging to the Cherokee nation; and, notwithstanding applications for their restoration having been made, they are still retained.

In the summer of 1836, Brigadier General John E. Wool required the Cherokees of the valley towns to surrender up their guns to his command; and, as a proof of their peaceable disposition towards the citizens of the United States, about two hundred (or upwards) guns were brought in and delivered up by the Cherokees to that officer. And when it was believed that General Wool could not but see that there was no propriety in withholding these arms longer, the council of the nation, in the fall of that year, at the instance of the owners, solicited the general to restore the guns; but I am not informed that it has been done, even up to the present time.

Some time in December last, when a committee of the nation appointed by the general council, consisting of Messrs. Lewis Ross, Richard Taylor, Daniel McCoy, and Elijah Hicks, met at the house of John Martin, late treasurer of the nation, for the purpose of settling his accounts preparatory to his emigration to Arkansas: at a late hour of the night, Mr. Martin's house was surrounded by United States soldiers, and in the morning the officer in command demanded all the public papers of the nation, and forcibly took the treasurer's account-book, and other papers. Mr. Martin, together with the committee, (excepting Mr. Taylor, who was not present,) were then made captives, and escorted by the military to headquarters, before General Wool, a distance of twenty miles. The commanding general, after liberating these gentlemen, made a general demand of them for all the public papers of the nation, and threatened, if they were not surrendered up to him, that he should be under the painful necessity of arresting all the leading men of the nation.

These unaccountably strange proceedings no doubt occurred under the pretext and authority of executing the "general order No. 74."

You will pardon me for repeating the suggestion to you, of the necessity for superseding the former instructions of the Department, upon which the aforesaid "general order" was based, by those which are now to be given to Colonel Lindsay.

My most ardent desire for avoiding every possible ground of difficulty between the officers of the Government and the Cherokees prompts me to ask the indulgence of being furnished with a copy of the instructions which shall be given to that officer; and, in conclusion, further to ask that the printing-press, types, books, papers, &c., belonging to the Cherokee nation, and the guns of individual Cherokees seized and detained as herein stated, be now ordered to be restored, without further detention.

I have the honor to be, sir,

With great respect,

Your obedient, humble servant,

JOHN ROSS,

In behalf of the Cherokee Delegation.

To the Hon. J. R. POINSETT, *Secretary of War.*

No. 5.

CHEROKEE AGENCY, June 22, 1837.

SIR: Permit me to state that I have never received your reply to the letter which I had the honor of addressing you in behalf of the Cherokee delegation, on the 4th ultimo; and, also, now to call your attention to the same.

I have this day had the pleasure of an interview with Colonel Lindsay; and in conversation with him in reference to the duties intrusted to his command in this nation, I regret to find that he has not as yet received such instructions as will justify him to depart from those heretofore given to General Wool, and on which that officer's general order No. 74 was based. As has always been customary, upon the return of the delegation, the general council of the nation has been called, to be assembled on the 31st of next month, and which council Colonel Lindsay states he should feel himself bound by the instructions heretofore given to General Wool to suppress, unless he should otherwise be instructed. The objects of this council are altogether of a pacific character; it is to receive the report of the delegation for the information of the nation, and that the Cherokees may confer and deliberate in peace and brotherly feeling among themselves, upon their own affairs generally. An interference or interruption of the exercise of this acknowledged right and privilege of freemen, by suppressing the council, could not but produce some sensation, and be viewed as oppressive and unjust by the Cherokee people. As to the effect which the holding of the council may be supposed, by some, to have upon the minds of the Cherokee people, in reference to emigration or the "treaty," I can assure you, sir, in sincerity and frankness, that, in my own opinion, it would make no serious change one way or the other.

I beg leave to ask that you may refresh your memory with the particulars of our several interviews; and especially of the assurance given by you that, whilst it was the determination of the President faithfully to execute the "treaty," no acts of *oppression* or *injustice* should be tolerated; and, if they occurred, to report them to you, that you would have us righted.

Permit me to renew to you my most ardent desire to avoid every possible ground of difficulty between the officers of the Government and the Cherokee people—that all may walk in the path of peace and perpetual friendship.

I have the honor to be, sir, very respectfully, your obedient, humble servant,

JNO. ROSS.

To the Hon. JOEL R. POINSETT,
Secretary of War.

P. S. Please to return me an answer as soon as practicable.

Your obedient servant, ,

JNO. ROSS.

No. 6.

WAR DEPARTMENT, May 6, 1837. .

SIR: I have the honor to acknowledge the receipt of your letter of the 4th instant, bringing to my view certain acts regarded by the Cherokees

as oppressive and unjust, and of which they complain; and asking to be furnished with a copy of the instructions to Colonel Lindsay, who is about to proceed to the nation to relieve General Wool.

The acts of which you complain will be strictly inquired into, and Colonel Lindsay will be instructed to examine and report to this Department all the circumstances connected with them.

With regard to the instructions to be given to Colonel Lindsay, it is not the usage of this Department to furnish any copies of similar documents; but the Cherokee nation may be assured they will be framed in a spirit of kindness towards them, and that every indulgence will be extended to them, consistent with the settled determination of the Government faithfully to execute the treaty of December 29, 1835.

Very respectfully, your most obedient servant,

J. R. POINSETT.

Col. JOHN ROSS, *Washington city.*

☞ This letter was not received until some time in July.

JNO. ROSS.

No. 7.

HEADQUARTERS OF THE ARMY,

Cherokee Nation Agency, July 24, 1837.

SIR: In a conversation between us at the agency, about the 22d of June ultimo, I informed you that my instructions would not warrant me in permitting a council of the Cherokee nation to be held. At the same time I advised you that I would refer the subject to the Department of War, notifying them that, unless specially instructed to the contrary, I should interdict its session. This course was adopted by me with the hope that the immediate action of the Government of the United States might be obtained on this grave and important measure, which doubtless would have been more satisfactory to the Cherokee people, as well as less onerous to myself. I am now advised, through the public papers, that the honorable Mr. Poinsett left Washington for Charleston, South Carolina, before he could possibly have received my communication; and it does not seem probable that he will have returned to Washington in time to forward any instructions for my government, even should they contain his assent to the proposed meeting of the council. In fact, up to this date, I have not heard from the Department, although my letter was forwarded in duplicate by two successive mails. But as rumor informs me that the council will convene on the 28th or 29th, notwithstanding my interdiction, which you will readily perceive I must now enforce, I have deemed it proper to inform you of the above facts, and call your serious attention thereto.

I am, very respectfully, your obedient servant,

WM. LINDSAY,

Col. 2d artillery, commanding army C. N.

Col. JOHN ROSS,

Principal Chief of the Cherokee Nation.

No. 8.

RED CLAY, *July 25, 1837.*

SIR : I have this moment been honored with your letter of yesterday's date, and I very much regret to find that, under all the circumstances of the case, you consider it your duty to enforce an interdiction of the intended peaceable meeting of the Cherokee people, which was appointed for the purpose of being fully informed of the proceedings of their delegation with the Government of the United States, and of deliberating upon the peculiar situation of their own affairs; especially when I understand that there has been no special instructions from the present Executive of the United States to that effect.

Not having received any communication from the War Department or yourself up to this date on the subject, and bringing to mind the previous conversations passed between the honorable Secretary of War and the Cherokee delegation, and the most positive assurances given by that high officer that the Cherokees should be treated with kindness and liberal justice, it was taken for granted that there would be no interference with the quiet meeting of the council; or, otherwise, a postponement of the intended meeting might have been made, until some positive instructions from the President could be received. But now, the shortness of the time makes it impossible for any other arrangement to be made before the people will have assembled.

Under all the circumstances of the case, I cannot doubt it is one over which you may exercise a discretionary course; therefore, I hope, in reviewing the whole subject, you will act with justice and magnanimity on the present occasion, and not enforce an interdiction of the exercise, by the Cherokees, of one of the most sacred privileges of freemen.

Permit me, in conclusion, to say, the chiefs would at the same time be happy to see you, and such of your officers as can make it convenient to visit the council, the 31st instant.

I have the honor to be, sir, with great respect, your obedient servant,
JNO. ROSS.

Col. WM. LINDSAY, *2d artillery,*
Commanding army C. N.

P. S.—I expect to be at the agency this evening or to-morrow morning, and shall do myself the pleasure of calling on you.

No 9.HEADQUARTERS, *July 25, 1837.*

SIR : Since my despatch to you of yesterday, a communication from C. A. Harris, Commissioner, to General N. Smith, superintendent of Cherokee emigration, has been submitted to me by the latter. This Commissioner advises General Smith that "the Secretary of War has determined that no opposition shall be made to the assembling of the Cherokee council, which, it is understood, is to be held on the 31st instant." Although this information does not reach me through the proper official channel, yet

it comes in a sufficiently unquestionable shape to induce me to withdraw the interdiction which I have considered it my duty to impose ; and, should you deem it necessary, I will station such a force in the vicinity of the council as will protect it from the intrusion of evil-disposed persons, and secure its tranquillity.

I am, very respectfully, your obedient servant,

WM. LINDSAY,

Colonel 2d artillery, commanding army C. N.

Colonel JOHN ROSS,

Principal Chief of the Cherokee Nation.

No. 10.

CHEROKEE AGENCY, *July 26, 1837.*

SIR : I had the pleasure of receiving your despatch of yesterday's date, on my way to this place, informing me of the determination of the Secretary of War, that there shall be no opposition to the assembling of the Cherokee council, &c.

I thank you for the proffer you have made, in case I should deem it necessary, to station a military force in the vicinity, for the protection of the council from the intrusion of evil-disposed persons. I am not prepared to say that there will be a necessity for such a force ; but, in order to place such intrusions, on the part of the whites, out of the question, it may be well to have a company of troops stationed in the vicinity for that purpose.

I have the honor to be, sir, very respectfully, your obedient, humble servant,

JOHN ROSS,

Principal Chief Cherokee Nation.

Colonel WM. LINDSAY, *2d artillery,*

Commanding army Cherokee Nation.

No. 11.

To the Council of the Cherokee Nation :

It is represented to me by Lieutenant Deas, United States army, and superintendent of Creek emigration, that a number of Creek Indians have taken refuge within the limits of the Cherokee nation ; and that a party of these people, which was actually being transported, and which escaped on their way from that officer, is now there. It is my duty to retake these people and send them off, and I have ample means to effect that object ; but it is respectfully submitted to the council of the Cherokee nation whether the interests of humanity would not be best consulted by collecting these people peaceably, through the agency of the Cherokee authorities, instead of hunting them down with a military force, which, however strictly instructed, might, in the eagerness of pursuit, whether through accident or mistake, commit outrages not only upon them, but even on innocent and unoffending individuals of the Cherokee nation. I trust the

council of the Cherokee nation will not understand me as asking the performance of any act which is revolting to the feelings of humanity ; and I therefore distinctly state that I do not wish or intend that they shall cause to be delivered up any Creek Indian who may be connected with the Cherokees by marriage or parentage, or that sort of domiciliation which, according to their usages, constitutes citizenship ; but all others, I trust, will be peaceably surrendered to Lieutenant Deas, or his agent, by such means as the council may, in their wisdom, adopt.

Very respectfully,

WM. LINDSAY,

Colonel 2d artillery, commanding army C. N.

HEADQUARTERS ARMY C. N.,

August 3, 1837.

Colonel John Ross, principal chief of the Cherokee nation, is respectfully requested to submit the above communication to the consideration of the Cherokee council.

WM. LINDSAY,

Colonel 2d artillery, commanding army C. N.

No. 12.

RED CLAY COUNCIL GROUND,

August 4, 1837.

SIR : I have the honor to inform you that the council is now ready to proceed to deliberate and act upon the affairs of the nation ; and, should you have any thing to submit, under instructions from your Government, for the information of the Cherokee people, the council will receive and hear the same.

I have the honor to be, sir, your obedient, humble servant,

JOHN ROSS,

Principal Chief Cherokee Nation.

To Colonel WM. LINDSAY,

Commanding U. S. Army.

No. 13.

HEADQUARTERS, RED CLAY COUNCIL GROUND,

August 4, 1837.

SIR : The arrival of the special agent of the United States, Mr. John Mason, jr., will render my action unnecessary ; and I have therefore to inform you that I will not attend your council as agreed upon this morning. Mr. Mason has reached this place much fatigued, and not quite prepared to execute the duties of his mission at so early a period as 2 o'clock to-morrow ; I therefore suggest that the Cherokee council should either suspend their session until Monday, 7th proximo, or proceed with some other business ; with the understanding that Mr. Mason

will attend on Monday, 2 o'clock, P. M., to lay before them the views and intentions of the President of the United States.

I am, very respectfully,

Your obedient servant,

WM. LINDSAY,
Colonel Commanding.

Colonel JOHN ROSS,
Principal Chief of the Cherokee Nation.

Please answer this.

No. 14.

RED CLAY COUNCIL GROUND,
August 4, 1837.

SIR: In reply to your note of this date, I have the honor to state that the council will, with pleasure, receive any communication the special agent, Mr. John Mason, may have to submit, under instructions from the President of the United States, at such time as will best suit his own convenience.

The council will, in the mean time, go on with their own business until the time mentioned in your letter, or such other time as Mr. Mason may choose to designate.

I have the honor to be, sir, very respectfully,

Your obedient servant,

JNO. ROSS,
Principal Chief Cherokee Nation.

To Colonel WM. LINDSAY,
Commanding United States Army.

No. 15.

HEADQUARTERS, OLD COUNCIL GROUND,
August 7, 1837.

SIR: I am requested by Mr. Mason, special agent of the Government of the United States, to advise you that, in conformity with the understanding between us, he is ready to appear before the Cherokee council at two o'clock this day; and that he has waited to this time in the hope that the weather would clear up before making the proposal now addressed to you, which is: that if you consider the weather too bad, he will defer his talk until to-morrow, two o'clock P. M., or any other designated hour; if otherwise, he will attend the council at the time agreed on.

I am, very respectfully, your obedient servant,

WM. LINDSAY,
Colonel commanding army C. N.

Colonel J. Ross,
Principal Chief of the C. N.

No. 16.

RED CLAY, *August 7, 1837.*

SIR: The weather is bad, therefore I have thought it best to submit your note to the representatives of the nation, who will consult the feelings of the people present on the occasion; and, so soon as they are made known to me, I will do myself the honor of informing you of the same.

Very respectfully, your obedient servant,

JNO. ROSS,

Principal Chief Cherokee Nation.

To Colonel WM. LINDSAY,

Commanding U. S. Army, Cherokee Nation.

No. 17.RED CLAY, *August 7, 1837.*

SIR: Since sending you my note in reply to yours, I have been requested to inform you that, in consequence of the impatience of the people to return to their homes as soon as practicable, the council is now ready to receive the special agent of the United States Government. You will, therefore, please to inform Mr. Mason of the same.

Very respectfully, your obedient servant,

JNO. ROSS,

Principal Chief Cherokee Nation.

To Colonel WM. LINDSAY,

Commanding U. S. Army, Cherokee Nation.

No. 18.

WAR DEPARTMENT,

July 15, 1837.

SIR: The reply to your letter of the 4th of May was mailed to your address in Washington, and I hope has been received.

Colonel Lindsay has been directed by this Department to allow the council you have called to be assembled; and Mr. Mason, who will deliver you this letter, will, it is hoped, be present, and explain to the people the views of the Government in relation to the Cherokee nation.

Very respectfully, your most obedient servant,

J. R. POINSETT.

Mr. JOHN ROSS,

Cherokee Agency.

Address of John Mason, jr., United States special agent, to the Cherokee nation in general council assembled.

BROTHERS: I am here by command of the President of the United States. I salute you in his name, and bear to you his best wishes for your welfare. The President was informed by the chiefs, at whose command you are here assembled, that the objects of this council were to receive the report of the delegation, (lately at Washington,) for the information of the nation, and that the Cherokees might confer and deliberate in peace and brotherly feeling among themselves, upon their own affairs generally. These are the words of the chiefs. The President believes them to be words of truth. He is the true friend of the Cherokees. He ordered that their council should not be interdicted; and he has sent me to speak to you in his name. Brothers, you have heard the report of your delegation. They have told you, I doubt not, that they were received with kindness, and heard with attention. The replies of the President to your delegation have, I am told, been laid before you. Brothers, the President is very powerful, but his great power is guided by justice; and the first wish of his heart is, to ensure the safety and happiness of the Cherokee nation. Brothers, the President loves you with the same regard which he feels for your white brethren. He has seen with deep interest your noble and successful efforts to escape from the ignorance and barbarism which was the lot of your forefathers, and to elevate your nation in the scale of civilization. He has witnessed with great satisfaction your rapid improvement in the arts and comforts of life; the eagerness with which you have thirsted after education; and, above all other things, the rapid diffusion of the blessed light of Christianity amongst those of you who, by position or facilities of instruction, have fallen within the reach of its influence. He has not forgotten, brave Cherokees, that when the country has been plunged in war, the Cherokee warrior has poured out the full tide of his heart's blood by the side of the white man, as if emulously contending which could best defend a common country. Think you, when he looks at all these things, he does not feel a deep interest in the destiny of the Cherokee people? He says, when he looks back upon the pages of history, he sees but a record of the ruin of numerous and powerful tribes of Indians who have successively perished; who have undergone such complete extinction, that not a drop of their blood, not a word of their language, is left, and even their very names are preserved but in a faint and treacherous tradition. Brothers, look from Penobscot, in the North, to St. Mary's, in the South, and say what has been the fate of the Indian tribes which have continued in contact with the white man! Have they not all perished? All. In the sincerity of your hearts answer me, and say, could you under similar circumstances expect a different fate? The President has said such must not be the fate of the Cherokee nation. Brothers, hear the talk of the President. These are his words: "It has long been an object of anxious solicitude with the Government of the United States to remove the Cherokees beyond the baneful and fatal influences which now surround them, and which, if they had been suffered to remain in their present position, must soon have destroyed them. In pursuance of this humane policy, the treaty of 1835

was concluded with them. Notwithstanding the very liberal terms of this treaty, by which the United States have made provision for the future quiet, comfort, and happiness of their red brethren, and have agreed to pay largely and liberally for the lands and improvements the Cherokees will abandon, a portion of the nation are dissatisfied with that compact, and seek to overthrow it. Their delegation was assured by the Executive that this instrument is now become, by mutual acts of ratification, the law of the land, and cannot be altered at the will of either party; that the President has no power over it; and that the constitution of the United States makes it his imperative duty to cause it to be executed. In all the interviews had by the Cherokee delegation with the President and the Secretary of War, this language was held to them, and this declaration solemnly repeated."

In the name of the President I repeat this declaration now, to the council and to the assembled nation. Brothers, the President says the people of the United States and the Government have hitherto regarded the condition of the Cherokees with great interest and deep sympathy. They saw them surrounded and pressed upon by a white population, which, for their own preservation, were compelled to extend their laws over the Indian, as well as their own people, yielding gradually to the pressure and falling to decay. Encompassed by evils, moral and physical, and those fearfully increasing, their condition was becoming worse and worse, and they were about to disappear, as so many tribes had done before them. A few of the chiefs might have survived the general fall of the nation; but no doubt can reasonably be entertained that the mass of the people must soon have perished.

Brothers, the President says that, "entertaining these views, and anxiously solicitous to avert so great an evil, the Government sought to remove this people beyond the reach of moral and physical causes which were rapidly, certainly, and evidently working their destruction.

"The nation for a long time obstinately refused to listen to the proposals of the Government, and resisted all our efforts to ameliorate their condition. Instead of being a prosperous and united people, established in a fertile region, independent of the rule of the white man, which is foreign to their customs and abhorrent to their notions of freedom, they still linger in the territory of the States, a divided people, harassed by the encroachments of the white inhabitants, and subject to laws they cannot understand. Instead of roaming unrestrained over lands abounding in game, they are pent up by the improvements of their neighbors, and suffering under distresses and privations which would soon terminate in their ruin and utter extinction. Those who seek to withdraw them from such a state, are their friends; and those who would mislead them, by urging them to resist the benevolent designs of the Government, are their enemies, and worthy the severest punishment."

Brothers, such is the talk of the President which he has sent me to lay before you, that you may know the truth from himself. Listen not to those who tell you to oppose the benevolent designs of the Government. They are wicked men; they speak with a forked tongue, and their bad advice would lead to your inevitable ruin. Brothers, you have heard the words of the President, they are spoken in kindness. When each good Cherokee goes back to his lodge, and looks upon the woman and the children he loves, as he values their welfare and his own, let him remember

the words of the President. Brothers, the President hopes that you will see the force of the reasons he has given why you cannot remain here, and that you will go contentedly and quietly to your new country. The Government will faithfully fulfil all the stipulations and engagements which it has contracted with you, and its earnest desire is to see you prosperous and happy, and permanently settled in the fine country provided for you, and where you will never again be disturbed.

Brothers, is there among good men a father who could see his children exposed to dreadful dangers, and not make every effort to snatch them away at once, and place them in safety? The President feels for you as a father for his children. He sees you here exposed to fatal influences which are working your destruction, and he earnestly desires to place you beyond their reach. Hence his anxiety to see you safe in the new and distant country set apart for you. Once there, and these bad influences cannot reach you. Here, you are pent up within narrow limits, and with difficulty many of your people find even a scanty subsistence. There you have a wide country to yourselves, where the industrious cultivator of the soil will reap his crop in peace and security, and where the hunter will find game in abundance. Here, you are subjected to laws in the making of which you have no voice—laws which are unsuited to your customs and abhorrent to your ideas of liberty. There, Cherokees, you will make laws for yourselves, and establish such government as, in your own estimation, may be best suited to your condition. There, Cherokees, in your new country, you will be far beyond the limits or jurisdiction of any State or Territory; the country will be yours, yours exclusively. No other people can make claim to it, and you will be protected by the vigilant power of the United States against the intrusions of the white man. There, you can cultivate in security the arts of peace, which supply the comforts of life. There you can continue, without interruption, the improvements in your moral and social condition, which you have for many years pursued with laudable zeal and eminent success. There, finally, Cherokees, to give permanency to your institutions, and to secure the peace and prosperity of your nation, you will be entitled to a delegate in the House of Representatives of the United States, and thus be constituted a member of this great confederacy, with a full right to its protection, and a full participation in all its advantages and blessings.

Brothers, I have done. I shall never forget the good Cherokees. May the Great Spirit guide your steps in the paths of peace, and, under his divine protection, may you and your children enjoy long life and happiness.

Col. JOHN ROSS,

Principal Chief Cherokee Nation.

No. 20.

RED CLAY, CHEROKEE NATION,

August 11, 1837.

SIR: I have the honor to enclose to you a copy of the resolutions of the general council, in reference to the present condition of our relations with the Government of the United States. These resolutions were passed by the *unanimous voice* of the people in general council assembled,

the day after your communication from the President was delivered to them. In presenting this formal expression of the sentiments of the Cherokee people, it may be proper to say to you, as the special agent of the President, and the organ through whom his views have been conveyed to them, that the mild and conciliating spirit, and the kindness of expression which pervaded your address, were peculiarly soothing to their feelings. It is encouraging to them to be assured that their efforts to escape from ignorance and barbarism, their improvement in the arts and comforts of life, and the diffusion among them of the inestimable blessings of Christianity, meet the cordial approbation of the President. But, sir, it is extremely painful to them, among sentiments so fraught with benevolence towards the Indian race in general, and towards the Cherokees in particular, to find any thing which would conflict with the course which, in compliance with the paternal advice of former Presidents, they had pursued, and found to be eminently successful in the advancement of their welfare as a people. The Cherokees are indeed troubled, sir, to hear that the President holds the New Echota compact to be a valid treaty ; and further, in reference to that instrument, they are most painfully surprised to find it affirmed, in your address, that *mutual acts* of ratification have been performed. It is matter of sincere regret that the acts of the Cherokees, in regard to that subject, should have been so grossly misrepresented to the authorities of the Government, as to lead the President to form such an opinion. So far have the Cherokees been from performing any act of ratification, that they have ever been uniform and decided in their opposition to it. The makers of that pretended compact, who arrogated to themselves the style of chiefs, headmen, and people, acted in violation of the positive injunction of the general council of the nation, in opposition to the known will and reiterated protestations of the people.

As to the present sentiments of the Cherokees, and the unanimity with which they are entertained, you have doubtless become satisfied by personal observation ; and they confidently cherish the hope that the representations which you may deem it proper to make, will induce the Government to change the course of action pursued towards them. In conclusion, sir, permit me to assure you that the interviews with which you have honored many of our citizens will long be remembered with grateful emotions.

I have the honor to be, sir,

Your obedient servant,

JOHN ROSS,

Principal Chief Cherokee Nation.

To JOHN MASON, Jr, Esq.,

United States Special Agent.

No. 21.

RED CLAY COUNCIL GROUND,

August 7, 1837.

SIR : I herewith transmit to you a copy of the proceedings of the general council on the subject of your letter in reference to certain Creek Indians. So soon as I may be fully informed of the views and determi-

nation of the United States Government on the subject, I will take steps for communicating them to these people, agreeably to the resolution of the council. In reply to a communication which I had the honor of addressing the Secretary of War on the 4th of May last, respecting certain acts of oppression and injustice complained of by the Cherokees, I have been informed that the subject-matter of complaint would be strictly inquired into, and that you would be instructed to report all the circumstances connected with them to the Department.

It is desirable the council should be advised of the result of the investigation ; also of the decision of the War Department upon the report ; and, above all, whether the property will be restored to the proper owners. Among the articles seized with the printing-press, there was a set of books (the Encyclopædia Americana) which had been presented, through me, to the nation, by a Mr. Dunlop, a literary gentleman of Scotland.

There have also been various complaints made by sundry individual Cherokees, of trespass and outrage committed upon their property by citizens of the United States ; many of them having been dispossessed of their house and farms, and others threatened with similar treatment ; and, in compliance with their request, I would respectfully inquire, how far are you authorized or instructed to extend relief or protection to such sufferers by your command ? You will please to return me an answer.

I have the honor to be, sir, with great respect and esteem your obedient, humble servant,

JNO. ROSS,

Principal Chief Cherokee Nation.

To Colonel WILLIAM LINDSAY,

Commanding U. S. army, Cherokee Nation.

No. 22.

Resolution, &c. of the General Council.

The general council of the Cherokee nation have had the subject-matter of Colonel William Lindsay's communication, respecting certain Creek Indians, under consideration.

The authorities of the Cherokee nation have every disposition to communicate to these people the views and determination of the United States Government respecting them ; but cannot take any steps to lend their aid to any compulsory measure for removing the Creeks out of the limits of the Cherokee nation. The long-established intercourse between them, the usages and laws under which they came into this nation, together with the feelings of humanity, when their unfortunate situation is considered, in connexion with the peculiar condition of our own affairs, all forbid it : Therefore,

Resolved, That the principal chief be, and he is hereby, requested to ascertain fully the views and determination of the United States Government, from their agents, respecting the Creeks in this nation : and to take steps for communicating the same for their information as early as practicable ; also, to inform them that the Cherokee nation cannot protect them

in their residence here, should the power of the United States Government be exerted against them; and such other friendly talk as may be proper and just on the occasion.

R. TAYLOR, *President National Committee.*

Concurred :

GOING + SNAKE, *Speaker National Council.*

S. FOREMAN, *Clerk National Committee.*

JESSE BUSHYHEAD, *Clerk National Council.*

RED CLAY, CHEROKEE NATION, *August 10, 1837.*

No. 23.

The Creeks residing in the Cherokee nation to John Ross, Esq., Principal Chief.

SIR : We have listened to your talk. You say the officer of the United States wishes us to go to the West. We are sorry to hear this talk. Our minds are troubled. We do not want to go to the West, unless the Cherokees go there too.

We speak to you as the chief of the Cherokee nation. It has been the custom of our fathers and our forefathers to go freely into each other's country. With this knowledge we came into the Cherokee country. We came here to escape from the evils of war. In time of trouble we came to the Cherokees as to the home of a brother. When we came, we were treated kindly. Our red brethren made no objection. They did not tell us to leave the country. But we have been pursued by the white man and treated harshly, without knowing that we were guilty of any crime. While living here we planted corn in the season, but the white man destroyed it, and took away much of our other property. In this bad treatment two of our men were killed, one man shot through the thigh and arm, and three children lost in the flight of their mothers, and have not been found. We do not want to be put into the hands of these men. We ask the favor of you to permit us to reside with you. We ask your pity and protection. We put ourselves into your hands. We ask you to speak for us to the President, our father, that he may order his men not to hunt us through the country. We hope you will pity us; we hope the President will pity us. We want to live with you. We are willing to obey your laws.

Again we speak to the principal chief of the Cherokees.

Most of our number are connected with the Cherokees by blood or marriage, and those who are not themselves connected in this manner are nearly related to those who are. We hope the Cherokee chief will take hold of us and help us before our father the President. Will you tell the President that the son and brother of Chinnabee, the Creek warrior, who was the strong friend of the whites in peace and war, are here with us, and join with us in this petition. We hope the chief will obtain help for his own people, and that we may share in that benefit; but, if not, we are willing to share in the afflictions of the Cherokees.

You will discover our desires, and we hope you will be able to help us.

Signed at Red Clay, August 12th, 1837, by your friends and brothers.

Chagaledsee
Dicky

Atsattee
Yaha

Tsalee
Aweoonodena

Chanagwe	Ayamakee	Atsee
Tseese	Delagaquala	Leedeefatsor
Chulatesky	Tawetsee	Isfaaneeyohoola
Taskeketechee	Tsoofagana	Seequa
Tsoofee	Lawana	Gatsawegesegoo
Toowalaheetsa	Dakehege	Weelee
John	Watseesa	Halakyyahoola
Kanawesteesky	Yaha	Oosanalee
Tsetoksoo	Soometsa	Asaleedsee.
Gawohelosky		

NOTE.—A copy of this address was furnished to Colonel William Lindsay, for the information of the United States Government.

No. 24.

WASHINGTON CITY, AT MRS. ARGUELLES'S,
October 7, 1837.

SIR: The undersigned, delegates duly authorized and representing the Cherokee nation, present their compliments to the honorable Secretary, and beg leave, through his Department, to notify the Government of their arrival in the city, on business relative to the interests of the whole Cherokee people, and will be happy to do themselves the honor of paying their personal respects to the honorable Secretary, and his excellency the President, at such time as may be convenient, and their pleasure to designate.

Very respectfully, your obedient, humble servants,

JNO. ROSS,
R. TAYLOR,
JAMES BROWN,
SAML. GUNTER,
EDWARD GUNTER,
ELIJAH HICKS,
SITAWAKEE'S + mark.
WHITE PATH'S + mark.

HON. JOEL R. POINSETT, *Secretary of War.*

No. 25.

WAR DEPARTMENT, October 7, 1837.

GENTLEMEN: I have received your note of this date. It will give me pleasure to meet you at this office on Monday next, at one o'clock, P. M.

Very respectfully, your most obedient servant,

J. R. POINSETT.

MESSRS. JOHN ROSS,
R. TAYLOR,
JAMES BROWN,
SAMUEL GUNTER,
EDWARD GUNTER,
ELIJAH HICKS,
SITAWAKEE,
WHITE PATH,

Washington.

No. 26.

WASHINGTON CITY, *November 14, 1837.*

SIR: In pursuance of the understanding between us at our last interview, the undersigned submit to you a proposition, on behalf of the Cherokee delegation, to which they invite, through you, the deliberate consideration of the Government of the United States.

We need not reiterate to you our sincere and anxious desire harmoniously to arrange all our difficulties. Independently of that feeling which has ever animated the Cherokee nation, and which upon all occasions has led it to cultivate the most friendly relations with their white brethren, we are now prompted to pursue the same course by every motive of prudence and of interest.

We have not attempted to disguise to ourselves the embarrassments which surround us. We know your strength to be such, that any attempt to resist your will would be fruitless and unavailing. But while we recognise your power, we feel that the disparity which exists between the parties in that particular can in no degree affect the rights of either. Your superior strength may enable you to drive us from the homes which have been endeared to us, without providing for us a place of refuge, or furnishing us with the means of providing one for ourselves; but such a procedure would, when tested by the rules of justice and morality, be decided without reference to the greater or less degree of strength which might belong to the parties respectively.

We are also aware, to a certain extent at least, of the embarrassing position which the Government itself occupies in relation to this matter; of the "feverish excitement" (to employ your own phraseology) which has manifested itself in Georgia and Alabama in regard to it: but we cannot recognise in this state of things any thing which can vary or modify, in the slightest degree, the relative rights of the parties. It will not justify you in wresting from us our property, that you are urged to this act by any other influence. It will not diminish our injuries, or our sense of them, to know that you have been induced to them by the desires of others. We have not, by any act of ours, created or augmented this excitement. We have had no instrumentality in it, and cannot, so far as justice and equity are concerned, be affected by it.

While, however, such are our views, we cannot shut our eyes to the fact, that the circumstances to which we have adverted may, in a greater or less degree, materially influence our fate. Were it not for them, no difficulties would exist between the United States and ourselves. If you were desirous of purchasing our property, you would offer us terms proportionate to the value you attached to that which you wished to acquire. If we were satisfied with the proposition, the bargain would be concluded; and if not, the proffer would be declined, without offence being given or received.

Instead, however, of such an arrangement, we are met on the threshold of this negotiation with a peremptory demand to relinquish at least a portion of our property. We are not permitted to decline selling. We are not allowed to say we prefer remaining where our fathers lived before us to any compensation you can give. The demand is imperative, and no option is allowed us. Upon precisely the same principle, and with but comparatively a small extension of it, you might yourselves dictate the

terms and prescribe the conditions of the sale. We admit your power to do all this; and as a matter of right, we cannot distinguish between them.

In point of fact, we feel that we are under duress: that we are not at liberty to close the whole concern by declining to make a cession upon any terms; nor are we in the situation which every other proprietor is recognised to occupy, to prescribe the terms upon which we will sell. In the frank and friendly communications between you and ourselves, we think it proper that we should apprise you that we are aware of the position we occupy. It will be received by you in the same spirit that it is expressed—not as indicating unkindness, but as the mere annunciation of a fact equally well known to both parties.

With these preliminary remarks, we will proceed to repeat what we have already distinctly informed you, and the truth of which your recent visit to the nation must have abundantly proved, that the Cherokee nation never have recognised, and never can recognise, any moral obligation in the instrument purporting to be a treaty between them and the United States, dated in December, 1835. The Government has long been in possession of our views upon that subject, and it is unnecessary here to repeat them.

The rights of the parties, in our view of the matter, then, are fixed by the treaty of 1819. Were we free to choose, we should prefer that the stipulations of that treaty should remain unaltered. When it was concluded, it was the understanding of both parties—unquestionably so of the Cherokees—that such was its design, and such would be its effect. But we are not permitted to choose. Something more is required of us.

Deeply impressed with a sense of our situation, we should have preferred that we might have been spared (what we cannot but think a mere form) being called upon on our part to offer propositions. It is wholly immaterial what we wish. We could be well contented with the remnant of our former domain, secured to us by the treaty of 1819, and the fulfilment of the stipulations of that compact. It is the United States who wish those terms changed. It is they who wish for more of our territory. It would be more simple and straightforward for you to tell us, once for all, what you intend to have, and what terms you are determined to grant. You know, and we are not ignorant of it, that we are not at liberty to choose.

If, however, the United States, on any ground, and for any purpose, are desirous of obtaining our assent to their views, they best know what is the value they attach to that assent, and what are the conditions upon which they are willing to obtain it. We are incompetent to form such a judgment.

In one of our early interviews we did propose to make a further cession of lands in Georgia, and indicated a boundary, which, if the terms could be made acceptable, we would be willing to establish. This proposition you declared inadmissible. To present it again in terms would, we fear, be useless; but we feel disposed, under existing circumstances, to go further, in order to avert the consequences which threaten us. We propose, then, in general terms, to make a further cession of our territory, and to change the boundary as established by the treaty of 1819, so as to convey all the lands belonging to us within the limits of the State of Georgia, retaining only so much as shall be agreed upon, as furnishing a convenient and sufficient connexion between the residue of our territory, upon such terms and conditions as the parties shall concur in. Should this proposed basis

of a negotiation meet your assent, we are prepared, at once, to proceed in arranging all matters in difference. The considerations which we have already presented, furnish the most perfect guaranty that all our wishes and all our interests incline us to a satisfactory and amicable adjustment.

We have the honor to be, sir, very respectfully, your obedient, humble servants,

JOHN ROSS,
EDWARD GUNTER.

Col. JOHN MASON, Jr., *Georgetown, D. C.*

No. 27.

WASHINGTON, *November 24, 1837.*

GENTLEMEN : Your letter of the 14th instant was received on the 16th. The proposition to convey all the Cherokee lands within the limits of Georgia, except so much as may furnish a convenient and sufficient connexion with the residue of the Cherokee territory, is but a repetition of that made in conversation a few days ago, and which was declared inadmissible. This proposition is founded in error. The Executive cannot, were it so disposed, alter the essential features of the treaty of December, 1835. Whatever may be the opinion entertained of its validity by that portion of the Cherokee nation over whom you and your friends exercise an acknowledged influence, it is regarded here as a binding instrument. Having been ratified by the Senate of the United States, the States interested have a constitutional right to insist upon its execution, and the Executive is bound to carry its stipulations into effect. So far then, at least, as the entire cession of all the Cherokee lands contained within the limits of Georgia, Tennessee, North Carolina, and Alabama is concerned, no modification of the treaty of December, 1835, can be admitted. In relation to this instrument, you observe, "that the Cherokee nation never have recognised, and never can recognise, any moral obligation in the instrument purporting to be a treaty between them and the United States, dated in December, 1835;" and for the truth of this remark, you appeal to my personal knowledge, derived from actual observation, on my recent visit to your nation. I have more than once stated to you my convictions on this point. I know that your people are generally opposed to that treaty: but I believe their opposition is directed principally, not against the provisions of the treaty, but against the authority (or, as you say, the non-authority) by which it was made; and I believe, further, that if you, and the chiefs associated with you on your present mission, were, in behalf of your nation, to enter into a compact precisely similar in every respect, your people would conform to its provisions without a murmur. Believing this, knowing you have the confidence of your people, and are fully empowered "to act for them in the final adjustment of every matter mutually interesting to the United States and the Cherokee nation," I am surprised, while you "reiterate your sincere and anxious desire harmoniously to arrange all your difficulties," to find you persevere in offering propositions which have been repeatedly rejected; thus making no advance whatever in an object of vital interest to your people.

As to the moral obligation of the Cherokee nation to abide the essential provisions, at least, of the treaty of December, 1835, I refer you to the correspondence of their delegation, composed of yourself, (Mr. Ross,) and your friends, with the Secretary of War, dated in the months of February and March preceding. In this correspondence you proposed a cession of your whole territory for a moneyed consideration; the amount of which being thought extravagant by the President, you then proposed to submit the question, as to the sum to be paid for an entire cession, to the sense of the Senate of the United States, and agreed for yourselves to abide the award of the Senate, and to recommend the same to the adoption of your nation. The question was referred to the Senate, and the Senate, by resolution, "stated, as their opinion, that a sum not exceeding five millions of dollars should be paid to the Cherokee Indians for all their lands and possessions east of the Mississippi." The Secretary of War immediately announced his readiness to negotiate with you on this basis; and, to satisfy and conciliate all Cherokee interests, even proposed, should it be necessary, to negotiate with both the delegations then here. Could any thing further be asked of the United States? Their pledges, at least, were fully redeemed. But, after all this, you and your friends refused to treat, and the treaty of December, 1835, was made with the other party, on the basis prescribed by yourselves, viz: a cession of the whole Cherokee territory east of the Mississippi, for the sum of five millions of dollars. Although, as is thus shown conclusively, the United States have a perfect right to enforce the treaty of December, 1835, yet the desire of the Executive not to cause unnecessary suffering to the Cherokees, in the performance of his duty, induces the Secretary of War to listen to any proposals which he can accept without violating the previous engagements of the Government, and which may be acceptable to the chiefs now here, and lead them to advise the Indians peaceably to retire from the country they now occupy.

The authorities here are not ignorant of the influence exercised by the chiefs now in Washington upon the conduct of the Cherokees. They are fully aware that it is in your power to induce the Indians to resist the execution of the treaty, even by force of arms, or to submit peaceably to fulfil its stipulations. They are aware that, by your advice, the Indians have, in many instances, withdrawn from their engagements to emigrate the present season; and, by this conduct, are losing the benefit of removing at the season best fitted for such operations. If you value the welfare of your people, why shut your eyes to the evils and sufferings such counsel must inevitably entail upon them? Upon you rests the responsibility of the consequences, dreadful as they may be; and when the period arrives for carrying out the provisions of the treaty, and the imperative mandate of the law must be executed by the United States, the Cherokees, compelled to leave their present homes unprepared, will perceive, too late, they have been misled by false hopes, and may bitterly repent, amidst tears and blood, having listened to such advice.

You are mistaken when you say, if we wish to purchase your lands, the proposition ought to come from us. As I have shown above, we consider the bargain concluded by which the lands are ceded to the United States. But, knowing that a large portion of your people are averse to the execution of the treaty as it now stands, the Government is willing, for the sake of peace and humanity, to ask what further we can do to render it acceptable to them.

We know, gentlemen, that you and your friends here are too intelligent not to be aware of the inevitable consequences of your people remaining where they now are : with the laws of the States extended over them, and the white population pressing constantly upon them, their existence as a people would be short, and they would perish amidst all that degradation which has marked the extinction of so many of the tribes of red men who have been placed in similar circumstances. Whatever, then, may be the views and wishes of the chiefs in connexion with the permanent residence of the Cherokees on a part of the territory they now occupy, the Government of the United States, persuaded that they would eventually produce these consequences, cannot permit them to be consummated. Under any circumstances, the Cherokees must remove to the lands set apart for them in the West ; and if the chiefs now here are not disposed to treat upon this basis, and to submit such propositions as may render the treaty more acceptable to them and to their people, the sooner the correspondence is ended the better ; as it may be calculated to raise expectations which never can be realized, and to deter the Cherokees from doing that which both their interests and humanity require, namely, promptly and peaceably setting about their preparations for removal to the West.

Be assured, gentlemen, that I shall be most highly gratified on receiving such a reply to this letter as may lead to an arrangement of your difficulties. Taking the basis of removal as the foundation of your proposals, I do not conceive there will be any material obstacle to a satisfactory understanding as to detail.

I am, gentlemen, with great respect, your obedient servant,
J. MASON, Jr.

To Messrs. JOHN ROSS and EDWARD GUNTER.

No. 28.

WASHINGTON CITY, *December 6, 1837.*

SIR : Circumstances not under our control have prevented us from sooner acknowledging the receipt of your communication under date of the 24th ultimo.

The annunciation by you that the Government of the United States will insist upon the terms of the (so called) treaty of December, 1835, and that the Cherokees must at all events remove to the lands set apart for them in the West, has filled us with the most profound sorrow. It was what we had not anticipated from our previous intercourse with you or the Department. If this be the only basis which will be recognised in any future negotiations, we have nothing to do but patiently to submit ourselves to the horrible fate with which we are menaced, and humbly to implore our Creator for resignation under our calamities. The annunciation that we are to be driven by force, if necessary, from our homes, our hearths, our lands, our country, fills to overflowing our cup of bitterness.

The termination thus given to our intercourse would dispense with our doing more than merely to acknowledge the receipt of your communication, and, had your note confined itself to this, such would have been

our course ; but you have adverted to other matters, and made statements which seem to impose the obligation upon us of once more setting forth our views, lest silence, even now, might be thought by implication to be an admission of their correctness. We beg your patience with us once more. These are perhaps the last words you will hear from us, and we utter them with all the solemnity which ought to accompany them were we on our dying beds, and about to render an account to the omnipotent and omniscient Judge of every word spoken in the body. You inform us that the instrument of December, 1835, "is regarded here as a binding instrument. Having been ratified by the Senate of the United States, the States interested have a constitutional right to insist upon its execution, and the Executive is bound to carry its stipulations into effect." We do not profess to be skilled in the provisions of your constitution ; and we have perhaps heretofore been in error when we presumed that the assent of the parties to such a compact was that which gave to it its obligatory character, and that the ratification by the Senate was merely the mode prescribed by the constitution of the United States, in which the assent of one of those parties was to be manifested. We had never before been informed that the ratification by the Senate was any evidence of the assent of the other party to the compact, or in any manner dispensed with that assent. Had we been informed at an earlier period in our history that any portion of the Government of the United States could make that a binding treaty upon us in which we ourselves never had concurred, our course would have been different from what it has been. The idle formalities of negotiation and of our signatures might have been dispensed with, and we should long since have recognised our position to be that in which we now find ourselves—wholly dependent upon the will of our white brethren, with none of the rights or privileges which your nation has taught us we possessed, and which it promised to protect. In forming and acting upon an opinion which it now appears is deemed so erroneous, and in believing that the United States would disclaim any rights derived under an instrument tainted, as this is, with the original defect of having been wholly unauthorized by the nation which it professed to bind, we had not only been governed by our own principles and views of morality and justice, but had, as we thought, seen a distinct acknowledgment of their correctness by the Executive of the United States. In the treaty entered into in January, 1826, by our neighbors the Creeks with the United States, we found it, in terms, declared that "whereas a treaty was concluded at the Indian Springs on the 12th day of February last, between commissioners on the part of the United States and a portion of the Creek Indians, by which an extensive district of country was ceded to the United States :

"And whereas a great majority of the chiefs and warriors of the said nation have protested against the execution of the said treaty, and have represented that the same was signed on their part by persons having no sufficient authority to form treaties or to make cessions, and that the stipulations in the said treaty are, therefore, wholly void :

"And whereas the United States are unwilling that difficulties should exist in the said nation, which may eventually lead to an intestine war, and are still more unwilling that any cessions of land should be made to them, unless with the fair understanding and full assent of the tribe making such cession, and for a just and adequate consideration : it being the

policy of the United States, in all their intercourse with the Indians, to treat them justly and liberally, as becomes the relative situation of the parties :

“ Now, therefore, in order to remove the difficulties which have thus arisen, to satisfy the great body of the Creek nation, and to reconcile the contending parties into which it is unhappily divided, the following articles have been agreed upon and concluded, between James Barbour, Secretary of War, specially authorized as aforesaid, and the said chiefs and headmen representing the Creek nation of Indians.

“ Article 1. The treaty concluded at the Indian Springs, on the 12th day of February, 1825, between commissioners on the part of the United States and the said Creek nation of Indians, and ratified by the United States on the 7th day of March, 1825, is hereby declared to be null and void, to every intent and purpose whatsoever; and every right and claim arising from the same is hereby cancelled and surrendered.”

We now understand it to be the settled determination of the Executive to carry into effect the stipulations of the paper of December, not because the Cherokee nation ever gave its assent to that document, but because the Senate of the United States, by ratifying it, have dispensed with the necessity for such assent. We are glad to have the matter placed upon its true footing. We shall not venture to controvert the validity of this doctrine, or to question its rightful application to our case.

On the subject of our appeal to your personal knowledge of the state of feeling in our country, you have, as you remark, more than once stated to us your “ convictions on this point.” We have understood you uniformly to express your opinion that the Cherokees were, as a nation, opposed to that instrument; that the hostility to it was not the work of one man, or a few men, or of a large party—it was national, and almost unanimous. In the opinion you intimate, that this “ opposition is directed principally, not against the provisions of the treaty, but against the authority, or as, (we) say, the non-authority, by which it was made,” we cannot altogether concur, if it be meant to intimate that it was not at the same time strongly decided against its provisions.

The Cherokee nation have, on all occasions, and with great unanimity, repudiated these terms; they have ever refused to negotiate upon them. But is it possible to place the matter upon stronger or higher ground than you have yourself done? How can it be material what are the stipulations of an instrument professing to be a treaty, if the fatal, the conclusive objection, exists that no authority was ever given to negotiate it? This is, it is true, the principal ground which we have urged; but it was because, to our plain and untutored minds, it did appear to constitute the main subject of inquiry. We entertained the opinion that if our nation had sanctioned that instrument, we were precluded from questioning the obligatory character of its stipulations; and that, if it was unauthorized, any inquiry into its terms was unnecessary.

You further express an opinion that if we, and the chiefs associated with us, were to enter into a compact precisely similar in every respect, our people would conform to its provisions without a murmur. Let us submit to your candor whether it would be a fair argument were we to urge, that if the Executive of the United States were to enter into a new negotiation with us, assuming as its basis that the instrument of 1835 was fraudulent and unauthorized, and therefore void, and to submit this

matter to the Senate, with the evidence to sustain this proposition, that body would, "without a murmur," sanction the act?

But indeed, sir, you have misunderstood the Cherokee people, and misapprehended our relations to them. We feel proud when we say we concur in your opinion that we possess their confidence, but we possess it because we have endeavored to deserve it. Were we so to use that confidence, or rather so to abuse it, as to recommend to them, as a matter of voluntary arrangement, to acquiesce in terms which in our hearts we believe inequitable and unjust, and which they have on all occasions pointedly rejected, we should soon experience what we should certainly merit—the entire withdrawal of that confidence.

In relation to the moral obligation, on our part, to abide "the essential provisions of the treaty of December, 1835," you refer us to the correspondence between our delegation and the Secretary of War, in February and March, preceding its date; and seem to infer from it that we have violated a pledge then given. Having so often placed this matter in its true light, we cannot conceal our surprise to find it thus again presented, and again coupled with at least a strongly implied insinuation that we have been faithless to our engagements. Once for all, we give to this intimation our unequivocal denial. We deny that we gave any pledge from which we have swerved; we deny that our proposition was accepted by the Executive; on the other hand, it was rejected. We deny that the matter as proposed was submitted to the Senate; we deny that the Senate arbitrated upon the matter in difference; and we cannot think we are justly dealt with, when this subject is thus stated, and our personal integrity, as well as public faith, thus impeached upon grounds wholly imaginary.

Even admitting the correctness of your premises, we are unable to perceive how it is "conclusively shown" from them that the United States have "a perfect right to enforce the treaty of December, 1835." Even the version now given to the correspondence cannot impute to us any thing further than a pledge to negotiate a treaty conditional upon its being subsequently ratified by the nation. No such ratification has ever been given to this spurious instrument; nor can we comprehend how, even had we been faithless to our personal engagements, (which, however, we peremptorily deny,) such misconduct on our part would give validity to an instrument executed by individuals wholly unauthorized by the principals whom they professed to represent, and immediately and absolutely repudiated by such principals.

You say, in a subsequent part of your letter, that the authorities here "are aware that by (our) advice, the Indians have, in many instances, withdrawn from their engagements to emigrate the present season." In answer to this, a proper self-respect compels us to say, that, in this particular, as in many others, "the authorities here" have been deceived by false information. The whole accusation is destitute of even a shadow of truth; and, through you, we solicit the Department to exhibit to us the evidence upon which such an accusation has been preferred.

We are, sir, well aware of the calamities which impend over our unfortunate race. We know that the alternative is submitted to us, either to recognise the validity of an instrument which we believe fraudulent and void, and admit that we are justly driven from our country and our homes; or submit to be thus expelled by irresistible force, without this base humiliation. We should be recreant to ourselves, faithless to our professions, traitors to our country, did we yield to the former.

Your letter, sir, has taken from us our last hope—a hope in which we had indulged, from a just respect to your personal character, and in which we were encouraged, perhaps, by misapprehending some of your communications. In terminating this correspondence, we avail ourselves of the opportunity it affords to express to you our undiminished regard and personal esteem.

We have the honor to be, sir, your obedient, humble servants,

JOHN ROSS,
EDWARD GUNTER.

Col. JOHN MASON, Jun.

No. 29.

WASHINGTON CITY, *December 26, 1837.*

SIR: You have doubtless been apprized by Mr. Mason, with whom, at the instance of the Department, the delegation of the Cherokee nation of Indians have, for some time, been in communication, that the conferences between us have terminated without any adjustment of the matters in which we are interested.

The communications addressed to that gentleman will exhibit the grounds upon which we proposed to negotiate with the Government of the United States. The President having referred us to you, as the official organ of the Government, and our communications with Mr. Mason being informal, we are compelled again to address you, and to state that we are authorized by the nation whom we represent to enter into any negotiation with the Government of the United States, upon all the matters of common interest to both parties, on the basis that the instrument called the treaty of December, 1835, shall not be considered binding on either party. It would be unnecessary to go into any detail, at this time, either of the grounds upon which we assume the utter invalidity of that instrument, or the extent to which we should feel ourselves authorized to go, should the proposed basis be acceded to. You are fully in possession of the first; and the second can only be material, should our proposition be entertained. Such being our proposal, based upon our convictions of justice and propriety, we can only, in addition, intimate our earnest wish that, should it not be acceptable to you, you will inform us of the general basis upon which the Government of the United States is disposed to negotiate with us.

Although we can scarcely venture to indulge the hope that our proposal will be acceded to, after what has occurred, our duty compels us to submit it to you for an official reply.

With sentiments of the greatest respect, we are, sir, your ob't servt's,

JOHN ROSS,
EDWARD GUNTER,
R. TAYLOR,
JAMES BROWN,
ELIJAH HICKS,
SITEWAKEE, his x mark.
SAMUEL GUNTER, his x mark.
WHITE PATH, his x mark.

Delegates of the Cherokee nation.

HON. JOEL R. POINSETT,
Secretary of War.

No. 30.

DEPARTMENT OF WAR, *December 27, 1837.*

GENTLEMEN: I have the honor to acknowledge the receipt of your letter of the 26th of December, which has been this instant placed in my hands. Mr. Mason's letter was submitted to me before it was sent to you, and received my concurrence and approbation. It must be regarded, therefore, as an expression of the opinion of this Department. The treaty of December, 1835, is considered by the President to be a law of the land, which the constitution requires him to execute, and therefore no negotiation can be opened, or proposition entertained, upon the basis you propose.

The Department regrets to perceive a settled purpose, on your part, to involve your people in the difficulties, and to expose them to the sufferings, which will inevitably follow their opposition to the treaty. It is well informed that you have held out to them false hopes, which have led them to refuse to emigrate at the season of the year best suited for their comfortable removal. This is very much to be regretted. The President, when he instructed me to listen to any proposals you might be disposed to make, was governed by an earnest desire to conciliate the party in the Cherokee nation opposed to the treaty, and secure its peaceable execution, by engaging your influence to aid in producing this desirable object.

The unreasonable pretensions put forth in your communications, both to Mr. Mason and to this Department, have destroyed these hopes, and all that now remains for me to say in reply to your letter is, that it is expected the Cherokee Indians will remove from the States at the period fixed by the treaty of December, 1835.

Very respectfully, your most obedient servant,

J. R. POINSETT.

MESSRS. JOHN ROSS,
EDWARD GUNTER,
R. TAYLOR,
JAMES BROWN,
ELIJAH HICKS,
SITEWAKEE,
SAMUEL GUNTER,
WHITE PATH.



